

## Annual General Meeting of Electors

### Minutes

31 January 2023

Pursuant to Section 5.27 of *the Local Government Act 1995*, a General Meeting of Electors is to be held within a local government district once every financial year.

#### Meeting advertised for public information as follows:

- Bunbury Herald 'City Focus Column on Tuesday 27 December 2022 and 3, 10, 17, 24 and 31 January 2023.
- Notice posted on notice boards in the City's Customer Service Centre, City Library and Withers Library between 21 December 2022 and 31 January 2022.
- Notice posted on City's website between 21 December 2022 and 31 January 2023.
- Notice posted on City's social media account (Facebook) between 21 December 2022 and 31 January 2023.



**CITY OF BUNBURY**  
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Western Australia  
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## 1. Welcome by the Mayor

The Mayor declared the meeting open at 6:30pm and in doing so acknowledged the Traditional Custodians of this land, the Wardandi Noongar People, and paid his respects to Elders past, present and emerging.

## 2. Record of Attendance, Apologies and Leave of Absence

### City of Bunbury Representatives

Mayor Jaysen Miguel, Presiding Member  
Gavin Harris, Acting Chief Executive Officer  
Gary Barbour, Director Sustainable Communities  
Karin Strachan, Director Strategy and Organisational Performance  
Greg Golinski, Manager Governance  
Liam Murphy, Governance Officer  
Kate Fielding, Media and Engagement Officer

### Bunbury Electors

Brendan Kelly; Andrew Porter; Tracey Cowan; Bernhard Bischoff; Alison Martin; Mike Fenton; Ann Stephenson; Andrew Diment; Gwen Regan; Catherine Gee; Ben Sandor; Emily McKelvie; Sonya Dye; Rob Semple; Rita Semple; Michael Buswell; Penny Rackham; Christina Buckley; Alex Campbell; Rita Haines; Geoff Gribble; June Harnett; Vicki Barnes; John Barnes; Denise Pitt; Ros Hilbers; George Osiejak; Joe Cowan; Ben Andrew; Wendy Giles; Cheryl Kozisek; Betty McCleary; Tresslyn Smith; Karen Turner; Amanda Yip.

### Apologies

Mal Osborne, Chief Executive Officer; Michelle Steck; Gabi Ghasseb; Karen Steele

## 3. Annual Report for the Year Ended 30 June 2022

### 3.1 *Mayor's Report 2021/2022*

The Mayor read aloud his Mayoral Message within the Annual Report for the financial year 1 July 2021 to 30 June 2022.

### 3.2 *Acceptance of Annual Report 2021/2022*

The motion to receive the Annual Report for the year ending 30 June 2022 was put to the vote:

<b>Recommendation:</b>	<b>Moved: Emily McKelvie</b>	<b>Seconded: Ann Stephenson</b>
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***The Annual Report of the City of Bunbury for the year ending 30 June 2022 be received.***

## 4. Business of the Meeting

### 4.1 Questions of Which Notice Has Been Given

#### **Mike Fenton**

Mike Fenton asked the following questions of which notice was given:

#### Question 1

Mr Mayor, using \*Powerpoint slide or similar, can you please project and fully explain (plain English) the same digital invoice and its document properties as slides appropriate for viewing by all persons in attendance.

#### Question 2

Mr Mayor, using \*Powerpoint slide or similar, can you please project and fully explain (plain English) that digital invoice and its document properties as slides appropriate for viewing by all persons in attendance.

#### Question 3

Mr Mayor, can you please explain the origin of and the means by which CEO Osborne procured the screenshot RCA \$11,000 invoice created on 17th Aug 2022.

#### Question 4

Mr Mayor, using \*Powerpoint slide or similar, can you please project and fully explain (plain English) the digital 2016-17 RCA Inc Invoice and its document properties (State Records), as slides appropriate for viewing by all persons in attendance.

#### Question 5

Mr Mayor, using \*Powerpoint slide or similar, can you please project and fully explain (plain English) the payment particulars for the same \$8,800 to RCA Inc Invoice as slides appropriate for viewing by all persons in attendance.

#### Question 6

Mr Mayor, if Bunbury Council's payment of that same RCA Inc Invoice (Questions one and two) excluded \$800 of GST, can you please tonight, provide Electors with the evidence of who or what entity paid Bunbury's \$800 GST component to the Australian Tax Office.

#### A/CEO Response to questions 1 to 4

With the use of a visual aid on screen, the A/CEO responded as follows:

While in some cases a document's 'Modified Date' can indicate a change to the content of the document, a common cause of a change to this value is when files are saved and moved.

The City's records system lists the Created/Modified date of this document as 17 August 2022. When a copy of this document has been saved to be sent to Mr Fenton, the modified date has changed to 15 December 2022, reflecting the date it was extracted from the records system. Similarly, the date has again changed when Mr Fenton has saved a copy to forward to the City alongside his questions for the Annual Electors Meeting.

In the absence of other factors, the 'Modified Date' of a file should not be taken as evidence of content changes post creation.

#### A/CEO Response to questions 5 and 6

It is understood that GST is paid as part of the settlement of invoices from RCA.

**Brendan Kelly**

Brendan Kelly asked the following questions of which notice was given:

Question 1

Can you confirm the precise amount of extraordinary funding provided to the BHRC in the current and previous three (3) financial years? Is there any indication of a need for, and/or an allocation for 'extraordinary' funding allocations in future years? If so, how much? Does the City have a budget strategy for any future need?

Question 2

Is the \$3 million allocation a loan or a grant to the BHRC? Can you advise if this capping work has been put to tender, are the current funds available sufficient for the work, has the capping work commenced and is there a date for the capping to be completed by? When was the last occasion that the BHRC reported to the City on the status of the capping matter?

Question 3

What is the status of the proposal for a new lined cell? Is there an update on costs? Is there a date by which a new cell may be receiving landfill?

Question 4

Has the City completed projections on the future cost of waste management to ratepayers in various scenarios (e.g. closure of the SRWMF, upgrade of SRWMF, private waste disposal providers) for the next five budgets? Will the City formally advise ratepayers - by way of a formal report, endorsed by Council - on the financial implications of its continued commitment to the BHRC and the SRWMF?

A/CEO Response to Question 1

2019/20 Operationally \$0 Capital \$0

2020/21 Operationally \$0 Capital \$0

2021/22 Operationally \$231,000 Capital \$0

2022/23 operationally up to \$715,000, further decision on processing 1/3 (6,500) of mattress \$199,333.50 and up to \$500,000 to address legacy issues, Capital \$3,000,000 for the capping project.

There may need to be further consideration by Council for ongoing financial support to deal with Legacy issues, new lined cells and operational short fall, these have not all been quantified at this stage.

*Council Decision 299/22*

*That Council:*

3. *Requests the Chief Executive Officer prepare a discussion paper that explores the costs, legal requirements and logistics of implementing a waste levy in accordance with the Waste Avoidance and Resource Recovery Act 2007*

A/CEO Response to Question 2

20/12/2022

*Council Decision 300/22*

*[That Council]*

6. *Supports the reimbursement of the City of Bunbury's unlined cell capping contributions (\$3m principal only) by the Bunbury Harvey Regional Council, in accordance with the BHRC Dividend Agreement which determines that the payment of dividends to both Member Councils are to be instituted once surplus funds are generated from the operation of the new lined cell."*

- The Tender has been awarded
- The current funds are sufficient for the required works
- Yes the works have commenced
- Completed by June 2023
- BHRC has been providing regular updates on the project's progress to officers and its Council

A/CEO Response to Question 3

20/12/2022

Council Decision 300/22

"That Council:

BHRC New Lined Cell Business Case

1. *Endorses the Bunbury Harvey Regional Council (BHRC) Lined Cell Business Case.*
2. *Supports the construction of the first phase of the Stanley Road Lined Cell project together with the Intermediate Capping project to be advanced as early as is possible.*
3. *Supports the BHRC and Member Councils seeking capital funding through the Expression of Interest proposal as the first funding preference.*
4. *Notes that should there not be suitable lined cell development partnership opportunities identified through the EOI process, that the Chief Executive Officer will return a capital funding model for the lined cell and intermediate capping projects to Council for its approval.*

Increase in the City of Bunbury Contribution for the BHRC Lined Cell from \$4M to \$6M

5. *Approves the City of Bunbury future allocation for the Bunbury Harvey Regional Council new lined cell to be increased from \$4,000,000 to \$6,000,000 (subject to 3. and 4. above) and in an equal proportion to the Shire of Harvey, which is to be repaid by the BHRC through a self-supporting 10 year loan as provided for in the Lined Cell Business Case.*

A Licence amendment will be submitted to Department of Environment and Water Regulations by end of February 2023, approval of this will determine the construction timeframe.

A/CEO Response to Question 4

Investigations have been undertaken in regard to options for the Stanley Road Site including costs for closure, continued operations and utilising existing local waste facilities, this information has been considered by Member Councils.

Council Decision 299/22

That Council:

3. *Requests the Chief Executive Officer prepare a discussion paper that explores the costs, legal requirements and logistics of implementing a waste levy in accordance with the Waste Avoidance and Resource Recovery Act 2007*

**Rob Semple**

Rob Semple asked the following question of which notice was given:

Question 1

Was the City's Planning Department aware of (or made aware of) the Stephen Carrick report and was there any consultation with the Heritage Advisory Committee before the Planning Department made the recommendation to approve the proposed Child Care Facility at 88 Beach Road? If not, why not?

A/CEO Response to Question 1

As outlined in the Council Minutes (item 10.10) of 29 November 2022, the application for development approval for a proposed childcare centre at #88 Beach Road was referred internally to the City's Heritage officer and externally to the City's external advisor. The Planning department was aware of the Stephen Carrick report (Tree Street Heritage Area Assessment, July 2022) which identified the existing single house as having a high contribution to the proposed heritage area. The application was also referred to the Heritage Advisory Committee.

Subsequent to the above referrals, legal advice was sought as to the validity of applying clauses 67 (2)(k) and (l) under the Planning and Development (Local Planning Schemes) Regulations 2015 in which the built heritage conservation and cultural heritage significance is to be considered. In particular, legal advice was sought on the validity of refusing the development based on the identifications of the heritage value of the dwelling as a Category 3. The legal advice received noted that demolition works that are not within a heritage protected place are exempt from development approval and are exempted under clause 61 (1). As the dwelling is not included in a heritage protection area under the Scheme, the demolition of the dwelling ('single house') could not be included as a matter for consideration before the Council, only the construction and ongoing use of the land for a 'child care premises.'

## **4.2 Questions from Electors at the Meeting**

The Mayor called for questions from the floor concerning matters under the jurisdiction of the City of Bunbury Council. The following questions were asked. Responses to questions taken on notice at the meeting are also reflected within these minutes.

**Brendan Kelly**

Brendan Kelly asked a further question following response to the questions which he provided notice of prior to the meeting:

Question 1

Will the discussion paper that explores the costs, legal requirements and logistics of implementing a waste levy be made available to the public?

A/CEO Response to Question 1

The discussion paper will be put to Council for consideration. Consideration of the item will not occur behind closed doors.

**Michael Buswell**

Michael Buswell asked the following questions:

Question 1

At a previous Electors meeting it was proposed that the City investigate recognise former Sporting Champions since the early 1800's however this has not occurred. Has there been any work in this area?

Response to Question 1

The question was taken on notice at the meeting with the response detailed below:

At the City of Bunbury Annual General meeting of Electors held 4 December 2018, the following motion was carried:

*That the City of Bunbury establish a system to recognise all current and former Bunbury based athletes who have achieved national representative status in their chosen sport.*

- 1) *This initiative includes a publicly accessible register to promote achievements of our community members.*
- 2) *City of Bunbury annually use the opportunity presented by Myles Junior Sport Star of the Year ceremony to announce new inductees to the register, with the induction process incorporating the opportunity for public nomination of potential inductees.*
- 3) *Once the system is established the City of Bunbury explore opportunities to work collaboratively with neighbouring shires to expand the register to include all eligible south west residents*

Subsequently, the item was considered by council at the Ordinary Council Meeting held 22 January 2019 where council determined:

*Council Decision 010/19*

*That Council request the CEO table this matter as an item on the next available South West Country Zone of WALGA agenda, for the Zone to consider establishing a Regional South West Sporting Hall of Fame, with appropriate funding contributions by member local governments.*

The CEO provided a report for the WALGA South West Country Zone meeting held 30 April 2019 to consider endorsing a motion being *“that the SW Zone support in-principle the proposal to revitalize the South West Hall of Fame and request that member local governments commit to a shared funding model for the initial capital cost and ongoing management of the program for a period of 10 years...”*, however it was determined at this meeting *“that the motion lay on the table.”*

There has been no further consideration of this motion at this point in time.

Question 2

The City has recently sold a major Car park to a hotel company for several million dollars. Will the revenue from the sale of this car park be put back into more parking?

A/CEO Response to Question 2

The Council resolution which agreed to the sale of the land noted that funds from the sale would be allocated to the City's Parking Reserve.



Question 3

Council has previously nominated a floral emblem for the City which has never been recognised. What is the City's floral emblem? Mr Buswell went on to state that the *Nuytsia floribunda* is the City's floral emblem.

Response to Question 3

The question was taken on notice at the meeting, and City officers are currently investigating historical records to confirm if the City has an official floral emblem and what that emblem may be. Officers will respond to Mr Buswell directly following this research.

**Alex Campbell**

Alex Campbell asked the following questions:

Question 1

I believe that the Tree Street Heritage Area assessment provided by Stephen Carrick Architects was funded by a grant. Can you please confirm where the grant came from and the cost of the assessment?

Response to Question 1

The question was taken on notice at the meeting with the response detailed below:

The Tree Street Heritage Area Assessment was funded by City of Bunbury budget as part of the Municipal Heritage Inventory (LHS) Review. The cost of the assessment was \$18,700 (incl. GST).

Question 2

In regard to the City of Bunbury's attendance to the SAT Directions Hearing concerning the proposed child care centre at the corner of 88 beach Road and Karri Street, who from the City of Bunbury will be representing the City and has the City appointed a legal representative?

Response to Question 2

The question was taken on notice at the meeting with the response detailed below:

Councillor Betty McCleary and Councillor Ben Andrew will be representing the City of Bunbury at the SAT proceedings. Lavan Legal will be providing legal representation for the City. Lavan Legal will arrange any relevant specialist sub consultants to provide assistance if required.

**Rita Haines**

Christina Buckley asked the following question on behalf of Rita Haines.

Question 1

In regard to the Proposed Child Care Premises at 88 Beach Road Bunbury, will the City of Bunbury ensure that any damage which will ensue to our 100 year old homes caused by the vibrations, compaction and traffic of trucks and heavy vehicles during the demolition or construction of this development or future development by satisfactorily repaired or recovered at no cost to the homeowner.

A/CEO response to Question 1

If a development approval or building license is granted, it is incumbent on the developer or builder to ensure there is no damage to adjoining properties. Depending on the nature of the development

it may be a requirement for dilapidation reports be conducted prior to construction and assessed following completion. It is then the developer or builders' responsibility to repair any damage to adjoining properties caused by the development.

**Christina Buckley**

Christina Buckley asked the following questions

Question 1

Why wasn't more credence and value given by the Planning Officers to the undeniable impact to the Tree Street Area when deciding to approve the development at Lot 1 88 Beach Road?

Response to Question 1

The question was taken on notice at the meeting with the response detailed below:

In processing the application staff are required to assess and measure the impact of the proposed development on a range of matters in accordance with Schedule 9, Part 9, Clause 67 (2) of the Planning and Development (Local Planning Schemes) Regulations. This includes but is not limited to, impacts on amenity (traffic, noise, odour, dust), building appearance (bulk, scale, orientation and activation), the aims and provisions of the Scheme, and State and local planning policy, and cultural heritage of the area. It is not that the impact of the proposed development on any future heritage listing of the area was not considered, more so that the proposed development was not located within a designated heritage area and not subject to any planning documents that carry statutory weight. In light of the proposed development complying with the existing development standards under the local planning scheme, and the demolition of the existing house being exempt from requiring development approval, this was given more credence in arriving at the officer recommendation of approval.

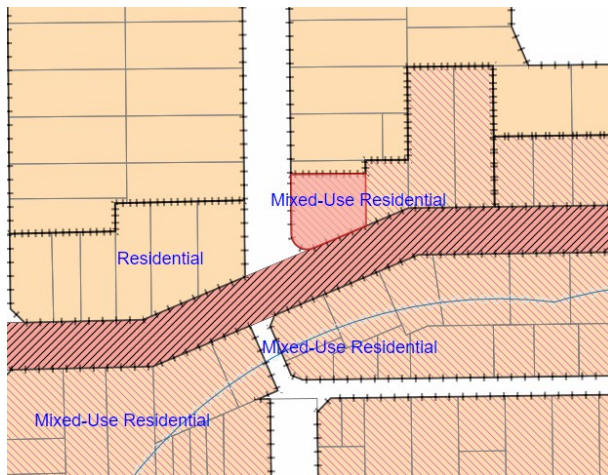
Question 2

What are the zoning plans for Beach Road East and West of Karri Street? Will future development in this locality again be allowed and up for grabs? If the SAT dismiss the appeal to Lot 1, 88 Beach road and the developer repurposes the block, can the City of Bunbury ensure that any development be only a single storey build and in keeping with the streetscape, integrity, authenticity and amenity of the area.

Response to Question 2

The question was taken on notice at the meeting with the response detailed below:

Beach Road includes both residential and mixed-use residential zoned land to the east and west of Karri Street as shown below. The building height requirements for the mixed-use zone are 9 metres, and for residential zoned land 8 metres for concealed roofs, and 10 metres for a hipped roof which would permit a two-storey building.



**Question 3**

On the Karri street side, signage for the proposed development will be 3 metres long and nearly half a meter deep. What are the rules and requirements for signage within a residential area?

**Response to Question 3**

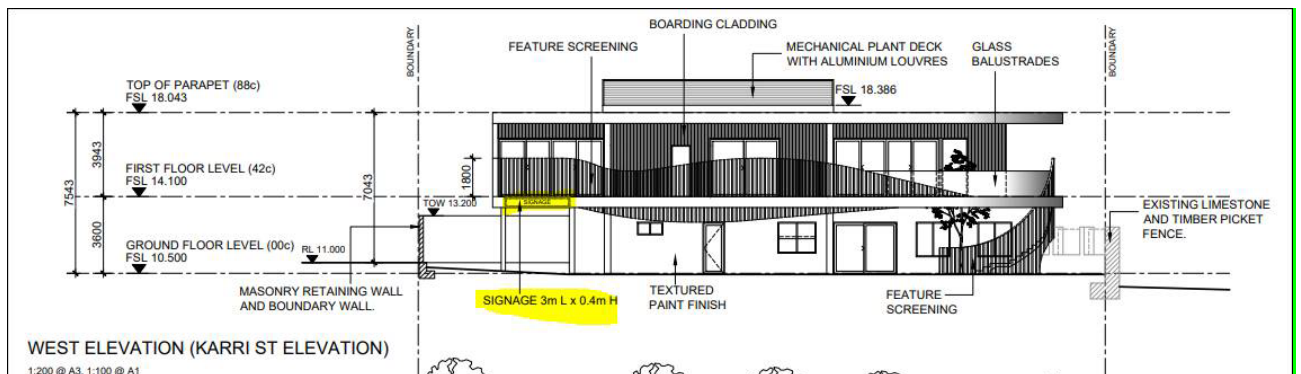
The question was taken on notice at the meeting with the response detailed below:

The proposed sign on the Karri Street frontage is as a wall sign. As such it is required to comply with the requirements set out in LPP 5.3 relating to this type of sign.

For this site which is located in the Mixed Use Residential Zone these requirements include:

- A maximum sign face area of 6.75sqm which must not extend beyond 12.0m above the ground.
- Must not project more than 300mm from the wall and/or fascia to which it is attached or beyond the edges of the wall and/or fascia.
- Is only to display the name, logo or slogan of the business.

The elevation shows one sign on the Karri Street frontage. The sign has an area of 1.2sqm and it is located on the lower fascia of the outdoor play area which is setback 2.0m from Karri Street. The top of the sign is 3.6m above the ground.



The sign type referenced in the agenda item is a ‘wall’ sign. This sign type is “1” – impact assessable in the Mixed Use Residential zone. The proposal was advertised as required by LPP5.3. The sign complies with the LPP 5.3 requirements for a “Wall sign” provided it displays name, logo or slogan of the business.

**Penelope Rackham**

Penelope Rackham asked the following question:

Question 1

Can the City of Bunbury put in some signage alongside Beach Road and William Street from Ocean Drive to Spencer Street, alongside other traffic calming measures?

A/CEO Response to Question 1

Regarding Street Signage, this is a responsibility of Main Roads and the City has no control over this. The City can request to Main Roads that signage be added, however ultimately this is Main Roads decision.

The City will commit to getting traffic counts for the area to gain an insight into the issue and determine what treatments may be required.

**Mike Fenton**

Additional to the questions that he provided notice of prior to the meeting, Mike Fenton asked the following question:

Question 1

Has the Council considered making Wellington Street one way East to West from the Department of Transport building to the beach and then Symmons Street West to East alongside the recreation ground?

A/CEO Response to Question 1

This has not been considered.

**Alison Martin**

Alison Martin asked the following question:

Question 1

While I appreciate that this is not the Council's responsibility to regulate speeding on paths, are they able to try and help by spraying speed limit reminders on footpaths where practicable?

Response to Question 1

The question was taken on notice at the meeting with the response detailed below:

There is no legally enforceable speed limit on shared paths in WA to allow us to paint a speed limit. However, the City of Bunbury is currently investigating a counter than can monitor speeds and pedestrian counts on pathways. If the City could be advised of the identified areas of concern we would be in a better position to investigate other measures that may assist in these areas.

Further, Ms Martin provided extensive background of an ongoing issue/s with adjoining neighbour/s on a property which they are building in regard to a dividing fence and retaining wall.

The questions asked in this regard were predominantly rhetorical and/or statements, and as such will be treated as statements with Officers' to liaise with Ms Martin directly in relation to this matter.

**Vicki Barnes**

Vicki Barnes asked the following questions:

Question 1

My husband and I own a property on Wellington Street and received a letter at the property address “to the Occupier” which related to the heritage of the property. Why was this addressed to “the Occupier” and not to us as the owners of the property?

Response to Question 1

The question was taken on notice at the meeting with the response detailed below:

Notification letters as part of the consultation process were sent to occupiers and owners of all properties to invite comment for consideration. For this particular property, the owners’ details were care of a real estate agent that manages the property.

Question 2

The letter included a lot of private information relating the property including dimensions of the property and photographs. Why was this information included?

Response to Question 2

The question was taken on notice at the meeting with the response detailed below:

The information is included as part of the assessment to determine the cultural heritage significance and represents a place record at that time.

Question 3

Our objection to be listed was rejected however we have not had the opportunity to speak to anybody in person relating to this. Are we able to speak privately to a City officer regarding this?

Response to Question 3

The question was taken on notice at the meeting with the response detailed below:

The owner lodged a formal submission which was considered and addressed in the Schedule of Submissions for Council’s consideration at the Ordinary Meeting of 31 January 2023. The owner was also invited to make a deputation to this meeting but there was no request for a deputation. City officers are available to discuss individual properties on request.

### **4.3 Motions of Which Notice Has Been Given**

Prior to the meeting, the following persons gave notice of motions they wished to move at the meeting.

1. Tracey Cowan
2. Bernhard Bischoff

Each motion and their outcomes are detailed below.

#### **Motion 1**

Tracey Cowan moved, and Ros Hilbers seconded a motion as follows:

##### ***That Council:***

1. ***Create a Masterplan for the John Banks Memorial Dog Park which includes consultation with the John Banks Memorial Dog Park Committee and users of the park (working group) by June 30 2023.***
2. ***Include line items in the 2023/24 and ongoing Budget for agreed amount/s to fund improvements to the John Banks Memorial Dog Park located Parade Road, Withers.***
3. ***Extend the size of the dog park to utilise existing open space in the area, approx 200 square metres.***
4. ***Review the City of Bunbury Dog Exercise Areas with the intention to identify future additional enclosed dog parks; in consultation with the John Banks Memorial Dog Park Committee. Once identified report back to Council with recommendation to update the City's Open Spaces and Parks Strategic Plan.***

The Mayor put the motion to vote and it was CARRIED to become the Electors' Decision.

#### **Motion 2**

Bernhard Bischoff moved and Penny Brackham seconded a motion as follows:

***The City Council consider including some funds in the 2023/24 budget for the purchase of the First official Plan of the Town of Bunbury (1843).***

The Mayor put the motion to vote and it was CARRIED to become the Electors' Decision.

#### **Motion 3**

Bernhard Bischoff moved and Michael Buswell seconded a motion as follows:

***The City Council consider - in relation to the Birthdate of Bunbury - that Stirling reported in March 1831 that he went a year earlier in March 1830 to Port Leschenault, where he selected the position for a town and established a military camp there for its protection.***

The Mayor put the motion to vote and it was CARRIED to become the Electors' Decision.

#### **4.4 Motions from Electors**

The Mayor called for motions from the floor.

##### **Motion 4**

Mike Fenton moved, and Brendan Kelly seconded a motion as follows:

***Bunbury Council instigate internal audit and testing of specific financial transactions involving its payments of public funds to Regional Capital's Australia INC (Vic) as evidenced by:***

- a) The RCA Inc invoice created on 17 August 2022***
- b) The RCA Inc invoice created on 10 August 2022***
- c) The historic RCA Inc invoice upon which Council relied to pay RCA Inc \$8,000 for 2017-17 subs.***

***On completion of the investigation of a), b), and c), the resultant audit report is forwarded to the City of Bunbury Audit Committee for action.***

The Mayor put the motion to vote and it was CARRIED to become the Electors' Decision.

*Note that pursuant to section 5.33 of the Local Government Act 1995, all decisions made at an electors' meeting are to be considered at the next Ordinary Council Meeting or, if that is not practicable, at the first Ordinary Council Meeting after that meeting or at a special meeting called for that purpose, whichever happens first.*

#### **5. Closure**

The Mayor closed the meeting at 7:40pm thanking those in attendance for their contributions.

Confirmed this day, 21 February 2023 to be a true and correct record of proceedings of the City of Bunbury Special Meeting of Electors held 31 January 2022

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Jaysen de San Miguel  
**MAYOR**