



19 FEBRUARY 2008

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GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management

Term	Explanation
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan

Term	Explanation
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
Residential R15	Town Planning Zone – up to 15 residential dwellings per hectare
Residential R20	Town Planning Zone – up to 20 residential dwellings per hectare
Residential R40	Town Planning Zone – up to 40 residential dwellings per hectare
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

COUNCIL (STANDING) COMMITTEE MINUTES

Minutes of an Ordinary Meeting of the Council (Standing) Committee held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 19 February 2008.

MINUTES 19 February 2008

NOTE: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the subsequent Council Meeting on 26 February 2008.

1. DECLARATION OF OPENING BY THE PRESIDING MEMBER

The Presiding Member, Mayor David Smith, declared the meeting open at 6.00pm.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor S Craddock
Members:	Councillor J Jones
	Councillor T Dillon
	Councillor S Rooney
	Councillor L Worthington
	Councillor B Kelly
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck
Councillor A Leigh	
Executive Management Team (Non-Voting)	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Mr D Marzano
Council Officers (Non-Voting):	
Manager Development Services:	Mr G Fitzgerald (<i>arrived 6.11pm - Item 11.1</i>)
Administration Officer Corporate Services:	Ms D Ryan

PRESENT (continued)

Others (Non-Voting):	
Members of the Public:	14 (approx.)
Members of the Press:	2

APOLOGY:

Councillor W Major

3. RESPONSES TO 'PUBLIC QUESTIONS' FROM THE PREVIOUS COUNCIL COMMITTEE MEETING (WHERE THEY COULD NOT BE ANSWERED AT THAT MEETING)

Not applicable.

4. PUBLIC QUESTION TIME

Nil.

5. QUESTIONS ON NOTICE FROM MEMBERS OF THE COMMITTEE (WITHOUT DISCUSSION)

5.1 QUESTIONS ON NOTICE - COLLEGE GROVE JOINT VENTURE

File Ref:	A00173
Applicant/Proponent:	Councillor Brendan Kelly
Author:	Councillor Brendan Kelly
Executive:	<i>Refer to:</i> Geoff Klem, Executive Manager City Development

The following questions had been submitted by Cr Kelly. Responses were provided by the City's Executive Management Team.

Question 1: Prior to the City of Bunbury Special Council Meeting of 31 January 2008; did the Mayor or any member of the City of Bunbury executive staff have any personal, telephone, mail or email communications on the subject of the Special Meeting or the Motion on Notice that preceded the Special Meeting; with Mr Ross Holt or any other staff at LandCorp?

- a) *If so, what was the nature of each communication and what was the outcome?*
- b) *If so, are the records or notes of any communications available to councillors?*

Response 1: At its meeting on 18 December 2007, the Council decided to defer Cr Kelly's Notice of Motion pending provision of maps, full costings and a detailed analysis of the effect on the City should the joint venture agreement be cancelled.

Consistent with this direction and Council policy to ask affected stakeholders to be made aware of imminent Council decisions that may significantly impact on their interests, the following actions were taken by the Chief Executive Officer (no other Executive Manager or the Mayor made any direct contact with LandCorp):

- Email sent on 19 December 2007, requesting clearing works be delayed until Cr Kelly's Motion is considered by Council in the new year and requesting information in relation to possible compensation (or any other issues for LandCorp) should the Joint Venture be dissolved.
- Emails received by the Chief Executive Officer on 20 and 21 December 2007 from LandCorp and Coffey Projects, confirming clearing works deferred until mid-February 2008.
- The Chief Executive Officer received telephone calls in relation to efforts to suspend tree clearing works on 20 December 2007.

Following consultation with the Mayor and Councillors it was agreed (on 22 January 2008) to hold a Special Council Meeting on 31 January 2008 to consider the College Grove (Woodcrest Rise) Joint Venture Agreement and Councillor Kelly's Notice of Motion. It was agreed that Councillor Kelly would ask three representatives to support his motion and that three representatives could provide a dissenting view to balance the debate.

Accordingly, the Chief Executive Officer contacted Ross Holt (CEO of LandCorp) by telephone on 23 January 2008, to advise him of the Special Council Meeting and ask whether he or another LandCorp employee would be willing to present on this issue.

On 15 January 2008, Dale Page (LandCorp) responded by email to the request for background information on the development of College Grove.

On 31 January 2008, Mr Ross Holt rang the Chief Executive Officer to advise he was on his way to Bunbury and would represent LandCorp at the Special Meeting later that day. The Chief Executive Officer advised the general process to be followed for presenters but final arrangements would depend on Council on the evening.

Associated emails (5 in total) are available for inspection by any councillors. Records are not kept of routine or incidental phone conversations of the type outlined above.

Question 2: Who is authorised to communicate or negotiate with LandCorp on the College Grove Joint Venture and the Bunbury Waterfront Development? Are the minutes, records or notes of these communications available to councillors upon request?

Response 2: The Chief Executive Officer and the Executive Manager of Corporate Services are the appointed City representatives on the College Grove Joint Venture Committee. Minutes of committee meetings are available for perusal by councillors on request at the City's Administration Building.

The Mayor, Chief Executive Officer, Executive Manager of City Development and the Senior Town Planner attend meetings concerning the Bunbury Waterfront Development (depending on availability). Copies of the minutes of agency meetings on the Bunbury Waterfront Project may be perused by any interested councillor upon request at the City's Administration Building.

Question 3: Prior to the City of Bunbury Special Council Meeting of 31 January 2008; did the Mayor or any member of the City of Bunbury executive staff have any personal, telephone, mail or email communications on the subject of the Special Meeting or the Motion on Notice that preceded the Special Meeting; with Mr Wayne Winchester or any other staff at the Department of Planning & Infrastructure?

a) If so, what was the nature of each communication and what was the outcome?

b) If so, are the records or notes of communications available to councillors upon request?

Response 3: Mr Ron Pumphrey from the Department of Planning and Infrastructure (DPI) contacted the Chief Executive Officer by telephone on 9 January 2008 to enquire whether a DPI representative could attend and present the Department's views at the Special Council Meeting. The Chief Executive Officer had no objection. Mr Pumphrey confirmed by email on 29 January that Mr Wayne Winchester would represent the DPI at the meeting.

Question 4: Will the City of Bunbury be required to contribute financially, or otherwise, to developing the residential, or any other lots, in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise)?

Response 4: No.

Question 5: If a financial or any other contribution is required from the City of Bunbury:

a) What will be the extent (value) of the contribution?

b) In what aspect of the development will it apply?

c) How will the extent (value) of the contribution be assessed?

Response 5: No financial contribution is anticipated.

Question 6: What is the anticipated gross revenue (gross sales) that will be generated from the sale of all land, residential or any other lots, in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise) per the Business Plan?

Response 6: Information is being obtained from the Project Manager - LandCorp.

Question 7: What will be the anticipated nett revenue or nett value of sales generated by the sale of all land (residential or any other lots) in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise) per the Business Plan?

Response 7: Information is being obtained from the Project Manager - LandCorp.

Question 8: Will the City of Bunbury's share of revenue generated by the sale of all land (residential or any other lots) in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise) be calculated as a percentage of anticipated gross revenue or nett revenue per the Business Plan?

Response 8: Yes.

Question 9: If the City of Bunbury's share of revenue generated from the sale of all land (residential or any other lots) in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise) is to be calculated as a percentage of the anticipated gross revenue, what is that percentage and the anticipated value of the share it will yield?

Response 9: Information is being obtained from the Project Manager - LandCorp.

Question 10: If the City of Bunbury's share of revenue generated by the sale of all land (residential or any other lots) in Stage 2 or any subsequent stage of College Grove (Woodcrest Rise) is to be calculated as a percentage of the anticipated nett revenue, what is that percentage and the anticipated value of the share it will yield?

Response 10: Information is being obtained from the Project Manager - LandCorp.

5.2 QUESTION ON NOTICE - INVALID PARKING INFRINGEMENTS

File Ref:	A00474
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>Refer to:</i> Geoff Klem, Executive Manager City Development

The following question had been submitted by Cr Steck. The response was provided by the City's Executive Management Team through a memorandum dated 18 February 2008 which was tabled at the meeting. For the benefit of the members of public and press present, the Presiding Member read the response aloud.

Question: What is the City's policy where a parking ticket has been proved to be purchased within the time specified when an infringement notice has been given?

Response: The City's Community Law & Safety Officers follow strict guidelines when a letter of appeal is received. The guidelines take into account all aspects of the applicable laws which regulate the issue of infringement notices.

The particular Local Law applicable in this instance states

Display of parking tickets and parking limits

6.2(1) A person must not stop or park a vehicle in a ticket machine zone during the period stated on the ticket issuing machine referable to the zone during which stopping or parking is permitted upon the purchase of a parking ticket unless

(a) an unexpired parking ticket issued by a ticket issuing machine in that ticket machine zone; and

- (b) *the date and time of issue or expiry, as the case may be, and the number (if any) of the ticket printed on the ticket, are properly displayed.*

The term “properly displayed” is further defined within the Local Law as – *properly displayed Means displayed inside a vehicle on the dashboard and clearly visible to and able to be read from outside the vehicle through the windscreen or either front window by the authorized person at all times while the vehicle remains stopped or parked.*

The evidence collected by the officer prior to issuing an infringement includes a visual check of entire interior of the vehicle, photographic evidence of the vehicle and any other relevant photographs and voice recording of what the officer has observed. The officer also records notes in regard to the evidence supporting the issue of the infringement.

In relation to any alleged offence regarding the improper display of car park tickets, whilst a valid parking ticket may be purchased by the motorist it is the responsibility of the motorist, in accordance with the Local Law to correctly display the car park ticket. On some occasions Officers find the ticket that has been purchased by the motorists is upside down on the dash of the vehicle and cannot be read by the Officer, or the ticket may be on the floor or seat of the vehicle, or motorists have forgotten to simply display the car park ticket. In all circumstances where the Officer can not read or sight the required details from the car park ticket such as the date and expiry time the Officer has no choice other than to issue an infringement as required by the Local Law. It must be remembered that the alleged offence is failing to properly display a car park ticket. The fact that the motorist may have purchased a car park ticket may not be in dispute.

This process is also designed to curtail any fraudulent activities that may be undertaken by any party such as obtaining car park tickets from other car park patrons once a motorist realizes that they have received an infringement.

As the issuing of an infringement notice, being a legal document is the first step in the legal process, the evidence that is gathered by the Officers is completed within the requirements of the Evidence Act and Officers are very conscious of the fact that the evidence gathered must be of such a high standard to present a Prima Facie case that will be successful should the matter have to be determined in a magistrate’s court.

The process for the issue of an infringement is regulated by law. Individual laws dealing with the issue of parking infringements are contained in the *Local Government Act 1995* and where it relates to an infringement issued under a Local Law and is further regulated by the *Criminal Procedures Act 2004*. When an appeal is received it is reviewed by checking all the evidence gathered and comparing it to what has been stated in the letter of appeal. If there is no evidence to support the claims in the letter of appeal the appeal is

denied at the departmental level and the appellant is notified in writing of the decision. If the appellant is further aggrieved by the decision to deny the appeal the appellant has the further opportunity to submit a further appeal to the CEO. As stated by law any person may also ultimately have the matter determined by the court.

From the point of Natural Justice, the appeal and review process goes beyond what is considered “reasonable” when reviewing the issuing of an infringement. No decision is undertaken without a full and thorough investigation of the matter taking into consideration the evidence gathered by the Officer and the circumstances as stated in the appeal. The appeal is undertaken by an independent officer, with input from the issuing officer and with a final determination by a senior officer. In some cases legal opinion from Council’s Legal Practitioners is also sought.

Should a Policy be introduced to determine these matters and that Policy is inconsistent with the law then the Policy is deemed to be *Ultra vires* (without legal power) and cannot be permitted as it would conflict with the law.

5.3 QUESTION ON NOTICE - GENERAL PUBLIC SURVEY ON PREFERENCE SPENDING

File Ref:	A00281
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>Refer to:</i> Ken Weary, Executive Manager Corporate Services

The following question had been submitted by Cr Steck. A response was provided by the City's Executive Management Team:

Question: Has a questionnaire or survey gone out to the general public to ascertain preference spending on the following items?

- a) Jetty restoration*
- b) New Bunbury Visitor Centre*
- c) Museum*
- d) Other considered items*

Response: No. These items are to be considered by the members of the Council at the 5-Year Finance Plan Workshop.

5.4 QUESTIONS ON NOTICE - PROPOSED LEASE, PORTION NEW LIBRARY, LOT 512 PARKFIELD STREET (AUSTRALIAN CENTRE FOR DIGITAL INNOVATION)

File Ref:	A02351
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>Refer to:</i> Ken Weary, Executive Manager Corporate Services

The following questions had been submitted by Cr Steck. Responses were provided by the City's Executive Management Team:

Question 1: Does the City consider that true and fair disclosure has been given to the ratepayers of Bunbury in relation to advertising for a tenant in the new Bunbury Library building?

Response 1: Yes. The Council advertised its intention to lease and advertised a Business Plan outlining the proposal in the South Western Times Newspaper on 6 December 2007, The West Australian Newspaper on 8 December 2007 and the Bunbury Mail Newspaper on 9 January 2008, together with Public Notices on Council's Library Notice Boards, Customer Service Centre and the City's website. The submission period closed on 31 January 2008.

The Business Plan outlined the names of the Joint Venture Group to whom it is proposed the area will be leased.

Question 2: Does the City consider that the advertising is misleading in any way?

Response 2: No. The Business Plan was informative and its contents outlined the proposed lease of portion (500m²) of the City of Bunbury Library and Smart Building at Lot 512 Parkfield Street, Bunbury. The table of contents was as follows:

1. Introduction
2. Background
3. Property Description
 - 3.1 Location
 - 3.2 Roads and Access
 - 3.3 Services
4. Title Particulars
5. Expected Effect on Those in Close Proximity

- 5.1 Expected Effect on Provision of Facilities/Services by the New Bunbury Library and Smart Building
- 5.2 Expected Effect on Other Persons Providing Facilities/Services in the District
6. Community Consultation
7. Expected Financial Effect on the City of Bunbury
8. Expected Effect on Matters Referred to in the City of Bunbury Plan Prepared Under Section 5.56
9. Ability of the City of Bunbury to Manage the Undertaking or the Performance of the Transaction
10. Conclusion

Appendix 1 – Locality
Appendix 2 - Site Plan
Appendix 3 – Certificate of Title
Appendix 4 – Advertisement

Question 3: Is the Business Plan mentioned in the advertising for a tenant in the library building different than the breakdown of the \$1.24 million fit-out proposed in the Memorandum of Understanding approved by Council on 27 November 2007?

Response 3: No. The Business Plan does not detail any specific fit-out costs. Section 7 of the Business Plan reads: "Construction of the new Library and Smart Building is estimated to cost \$9.7(M). Additional costs of the construction/fit-out of the lease area, which is the subject of this Business Plan, is \$1.26(M) and application is being made to the State and Federal Government for grant funds to cover this amount."

The Memorandum of Understanding endorsed by Council at its Meeting on 27 November 2007, gives notice of Council's intention.

Question 4: If it is a different Business Plan then why have I not been given a copy? Considering that I stated that this Council has not been given a copy of the Business Plan for an investment of \$1.24 million?

Response 4: No. There is only one Business Plan. The City has advertised its intention to lease and advertised a Business Plan in respect to the leasing of the ground floor of the Library to a Joint Venture Telecommunications Company and that to accommodate the tenant, \$1.26(M) is required to establish the leased area.

This is to be funded by application for funding to the State and Federal Government for grant funds as outlined in the Business Plan.

The Business Plan was advertised for public comment with a submission period running from 6 December 2007 to 31 January 2008.

Question 5: If in deed, it is the same \$1.24 million breakdown, then this is not a Business Plan and does the City consider that this explanation of a Business Plan is misleading and untruthful to the general public?

Response 5: The Business Plan outlines Council's proposal to lease a portion of the new Library and Smart Building at Part Lot 512 Parkfield Street, Bunbury and is an informative document.

Question 6: Were other councillors privy to the new Business Plan information before the advertising process?

Response 6: There was only one Business Plan prepared and advertised.

Question 7: Does the City consider the advertisement in the South Western Times Newspaper on 6 December 2007, that reads: "A telecommunications group for the provision of an Australian Centre for Digital Innovation to support digital technology and development and broadband adoption in Bunbury", clearly indicates to the general public that the Council has a Memorandum of Understanding to fit-out a private business, costing the ratepayers of Bunbury \$1.24 million to fit-out?

Response 7: Yes. The advertisement reads in part: "*The City of Bunbury proposes to lease 500m² of the ground floor of its new Library and Smart Building in Parkfield Street, Bunbury, to a Joint Venture Telecommunications Group for the provision of an Australian Centre for Digital Innovation to support digital technology development and broadband adoption in Bunbury.*"

In the same advertisement, Council advertises its Business Plan which clearly states that there is a \$1.26(M) application cost relative to the leasing of the 500 sq.m ground floor of the Library.

Additional (General) Comment - Chief Executive Officer

The advertising of Council's intention to lease (and preparation of the Business Plan outlining the proposal) was carried out in accordance with Council's decision of 27 November 2007.

The matter will again be referred to Council following close of submissions for Council's final decision on whether it will proceed on this matter.

6. CONFIRMATION OF PREVIOUS MINUTES

The recommendation was moved Cr Craddock, seconded Cr Leigh. The Presiding Member put the motion to the vote and it was adopted to become the Committee's decision on this issue.

Committee Decision

The minutes of the Council (Standing) Committee Meeting held 29 January 2008, be confirmed as a true and accurate record.

CARRIED

12 Votes "For" / Nil Votes "Against"

7. DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995

Councillor Leigh disclosed a financial interest in the item titled "*Tender RFT 2007/2008-04 - Building and General Electrical Services for Maintenance and Minor Works*" as his company has done some work for the tenderers listed on some occasions.

Councillor Whittle disclosed an impartiality interest and interest-in-common in the item titled "*Draft City of Bunbury Local Planning Strategy for Heritage and Character*" as his residence is located in a proposed future heritage precinct under the strategy.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil

9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS

Nil.

10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS

Nil.

11. RECEPTION OF REPORTS AND RECOMMENDATIONS FROM OFFICERS & ADVISORY COMMITTEES

11.1 PROPOSED LOCAL PLANNING POLICY "OFFICE DEVELOPMENT WITHIN THE MIXED BUSINESS ZONE"

File Ref:	A00398
Applicant/Proponent:	Internal Report
Author:	Kelvin Storey, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The proposed policy has principally been initiated in response to mounting pressure from within the commercial sector for the City to address the diminishing availability of small and affordable office premises in Bunbury.

The proposed policy intends, within strict qualifying criteria, to broaden favourable application of the discretion to include the changes of use and build new development of small premises for offices within a defined part of the Strategic Centre-Mixed Business Zone. The policy, if adopted, would also potentially encourage the viable re-use and refurbishment of many older buildings, some of which may have become less attractive as residences within an increasingly commercial environment and are otherwise unsuited for conversion to other types of commercial activity. The policy is considered sufficiently restricted to enable new opportunities to occur and re-investment to take place at a scale that will not compete with or seriously threaten the commercial primacy of the CBD.

At a secondary level, the policy also seeks to clarify the application of discretion with regard to offices within the Mixed Business Zone (until such time a new and comprehensive commercial strategy is adopted by the City).

At the Meeting held 18 December 2007, Council resolved (Decision No. 269/07) to:

- "1. Advertise the draft Local Planning Policy – 'Office Use within the Mixed Business Zone' for public comment for a period of 28 days in accordance with Clause 2.3 of the City of Bunbury, Town Planning Scheme No 7.*
- 2. Subject to no objections being received during the advertising period Council adopt the policy without modification."*

The formal period for public comment closed on Wednesday, 6 February 2008. Two submissions objecting to the Local Planning Policy as proposed, were received during this period and one submission in support of the Local Planning Policy. Whilst noting the comments, Council planning staff are of the opinion that the potential benefits afforded by the policy outweigh the extent of the concerns and objections raised.

Background

The report to Council on 18 December 2007 provided an account of the manner in which office development has been managed within the areas of the City currently designated as Mixed Business Zones within Town Planning Scheme No. 7 (TPS7). In the interests of completeness this background information is repeated below.

The City of Bunbury Town Planning Scheme No.7 (TPS7) was adopted in 2002 and remains the principal instrument by which the City is able to control and influence land development within its boundaries. The Zoning Table forms a fundamental part of the scheme, and identifies the permissibility of certain uses within a particular zone. The zoning table within TPS7 as it applies to office development is shown below:

<u>Use Class</u>	<u>Zones</u>											
	Residential	City Centre	Shopping Centre	Mixed Business	Industry	Port Industry	Place of Assembly	Education	Service Station	Rural	Special Use	Development (Residential or Industrial)
Office	X	P	P	D	X	X	X	X	X	X	#	*

The table clearly identifies office as a ‘P’ (permitted use) within the City Centre (CBD) Zone and Shopping Centre Zone, whereas within other zones offices are ‘X’ uses (not permitted), with the exception of the Mixed Business Zone which identifies it as a ‘D’ (discretionary use). The ‘D’ use annotation means that the use is not permitted unless the local government has exercised its discretion by granting planning approval, and in this respect will be guided by the Scheme Text, and any relevant adopted planning policies.

The bulk of the land zoned mixed business is concentrated within the Strategic Regional Centre adjacent to Spencer Street, Blair Street, Strickland Street and Sandridge Road (**attached** at Appendix 1). The stated objective of the Mixed Business Zone under Town Planning Scheme No 7 is to provide for a range of development that complements but does not compete directly with the City Centre (or Shopping Centre Zones).

The Mixed Business Zone was a newly defined zone within TPS7 that broadly consisted of the Commercial A and Commercial C zones that previously formed part of TPS6 and within which offices were categorised as a ‘P’ use. The Light Industry Zone of TPS6 was also captured within the new Mixed Business Zone, notably however, within this area, offices were only permissible when they represented an incidental (‘IP’) use. With the underlying intent being to safeguard the primacy of the CBD, there was some deliberation between the State and the City (during the TPS7 gazettal process), as how far to be restrictive in respect of offices within the newly created zone, particularly as some offices were already located within the area. Through the gazettal processes, State Government supported 200m² NLA as the figure to represent the maximum office floor space (per lot) allowable within the Mixed

Business Zone, thereby ensuring that the CBD would remain the focus for larger scale businesses (e.g. Regional Head Offices and National Branch Offices).

Since implementing TPS7 in 2002, the City adopted an interpretation (in using the discretion) whereby office use would only be allowed within the Mixed Business Zone where it represented either an ancillary use (up to 20% NLA) or an extension to an authorised existing office use (up to a maximum of 200m²NLA), and that in all other circumstances an office is not to be a permitted use. Whilst the City's stance to-date of essentially restricting all forms of new office development within the Mixed Business Zone is likely to be delivering some limited positive impact on the vitality of the CBD, the broad brush approach is arguably also stifling opportunities that would help to strengthen the economic base and vibrancy of Bunbury as a Regional Centre, particularly in the case of smaller office businesses which may be priced out of the limited market or simply unable to secure appropriate premises within the CBD, and consequently seeking premises outside the City altogether (within neighbouring shires).

Faced with this challenge, the City has sought to identify scope within the current Town Planning Scheme to adopt a more accommodating application of the use of discretion (in respect of locating of new office uses within the Mixed Business Zone) whilst retaining sufficient control to ensure the commercial integrity of the CBD is not threatened. The result is a policy that, in addition to office development allowable under the current interpretation, extends discretion to the favourable consideration of new small offices where, on a 'per lot' basis, they would be no greater than either 210m² GFA (gross floor area) and 200m² NLA office floor space. The 210m² GFA derives from up to 200m² NLA being allowed as office floor space (as required under the current Scheme), and 10m² reasonably being associated with essential incidental facilities such as toilets and washrooms.

In terms of spatial extent, the policy is to be confined to that part of the Strategic Centre - Mixed Business Zone roughly bounded by Spencer, Blair and Strickland St, and comprises areas formerly zoned as Commercial A and Commercial C under TPS6. The Policy Area is thus representative of an area historically different in character and function to the much of the rest of the Mixed Business Zone as currently designated within TPS7. The precise area is mapped and this forms Appendix A to the proposed policy a copy of which is **attached** at Appendix 2.

The Policy Area as proposed is contiguous to the City Centre Zone, linked through strong activity corridors extending along Spencer and Blair Streets, and presently provides a range of services that complement commercial activities of the CBD. Accommodating and supporting a variety of uses and building forms, the Policy Area incorporates several pockets of smaller/older premises which would potentially benefit from the arrival of new opportunities for investment in the form that the policy offers. The proposed policy is particularly aimed at stimulating reinvestment/renewal of existing (and former) single dwellings that may have become less attractive as a living option within the commercial environment, but are well suited to conversion to an office and potentially able to contribute positively to the visual amenity of the local area, and it would be in respect of these types of properties where favourable discretion would be most appropriately applied. A prime example is provided by the current planning application submitted in respect of 1 Teede Street, a report in respect of which is scheduled to appear as a separate item as part of the meeting agenda.

The policy also takes the opportunity to clarify the interpretation of discretion applied under the current scheme and the need (or otherwise) to seek formal planning permission where offices are ancillary /incidental to another use.

Review of the Local Planning Policy Framework is already underway, signalled by the ongoing preparation of new draft Local Planning Strategies. It is anticipated that the Local Planning Strategy for Activity Centres and Neighbourhoods will provide a comprehensive evaluation of the local commercial environment and propose a range of new zoning initiatives and follow up policies to address findings and desired outcomes. The proposed policy would necessarily be re-evaluated as part of this process.

Strategic and /or Regional Outcomes

The proposed policy is consistent with City of Bunbury Strategic Plan 2007–2012. In furthering the implementation of City Vision (objective 4), the City is currently undertaking a review of the Housing and Commercial Strategies and this opens the way for the preparation and consideration of a range of new land use planning initiatives. The proposed policy is considered complementary to this process and will be re-validated as part of the preparation of the Local Planning Strategy for Activity Centres and Neighbourhoods.

Community Consultation

The proposed Local Planning Policy was advertised for public comment in accordance with clause 2.3 of the City of Bunbury, Town Planning Scheme No 7.

Two letters objecting to the adoption of the policy were submitted and these appear in full, together with the Council Officer response within the schedule of submissions **attached** at Appendix 3.

Whilst other concerns are raised, the primary objections appear to relate to the following:

- The proposed policy is restrictive (particularly in limiting new development to 200m² NLA) and would have a negative impact on future investment and regeneration in the area.
- The policy is ‘ad-hoc’ and would at least be better placed if it were to be implemented across the full extent of the mixed business area.

Summary of Response

The policy only applies to new office development, and in this respect is enabling rather than restrictive in nature. Moves that would allow large offices (over 200m² NLA) to occur within the Mixed Business Area lies beyond the scope of a local planning policy at this time, instead requiring a Scheme Amendment to TPS7, backed up by findings and recommendations from an up to date and city-wide commercial strategy. The Local Planning Strategy for Activity Centres and Neighbourhoods will ultimately provide the rigor necessary to properly address this issue.

Extending the coverage of the Policy Area (beyond that proposed) remains an option open for future consideration. Revision of the policy / area boundary will be guided by forthcoming recommendations contained within the Local Planning Strategy for Activity Centres and Neighbourhoods.

Councillor/Officer Consultation

This matter has been discussed amongst both the Strategic and Statutory Planning staff as well as with Executive Manager City Development.

Analysis of Financial and Budget Implications

The recommendation will not impact on the existing Annual Budget and there would not be any expenses associated with the requests from a Council perspective.

Economic, Social, Environmental and Heritage Issues

The proposed planning policy is considered a valuable yet restrained approach to addressing reported shortfalls of small office premises in the City. The policy would create opportunities for a limited break-out office development to occur in certain parts of the Strategic Centre Mixed Business Zone and encourage re-investment in existing properties without seriously prejudicing either the commercial primacy of the CBD or possible outcomes emanating from the future Local Planning Strategy for Activity Centres and Neighbourhoods.

There are no significant heritage issues that would result from this proposal.

Council Policy Compliance

Not considered to conflict with any current Council Policy.

Legislative Compliance

The proposal is in line with the current Scheme requirement.

Delegation of Authority

Adoption of a Local Planning Policy must be by decision of Council.

Relevant Precedents

There are no known precedents relating to the consideration of this matter.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council resolves not to proceed with the proposed Local Planning Policy titled 'Office Use within the Mixed Business Zone'.

Conclusion

The policy approach is regarded as enabling in nature, essentially broadening the current scope of opportunity afforded to property seeking to develop within the policy area boundary and a measured step towards facilitating new office development outside the CBD.

Should Council choose not to adopt the policy then past, restrictive, interpretation of the policy position will prevail until such time the Local Planning Strategy for Activity Centres and Neighbourhoods is formally adopted and endorsed, a process which may realistically take 12 to 18 months or longer.

It is recommended that Council resolve to formally adopt the draft Local Planning Policy 'Office Use within the Mixed Business Zone' without modification.

Recommendation

Council, pursuant to the Planning and Development Act 2005, hereby resolves to adopt the Local Planning Policy titled 'Office Use within the Mixed Business Zone' without modification.

Outcome of the Council Committee Meeting - 19 February 2008

The recommendation was moved Cr Dillon, seconded Cr Leigh. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Council, pursuant to the Planning and Development Act 2005, hereby resolves to adopt the Local Planning Policy titled 'Office Use within the Mixed Business Zone' without modification.

CARRIED

12 Votes "For" / Nil Votes "Against"

**11.2 PROPOSED CHANGE OF USE FROM 'RESIDENTIAL' TO 'OFFICE' - LOT 20
(NO. 1) DP:2854 TEEDE STREET, BUNBURY**

File Ref:	P09597
Applicant/Proponent:	Mr Anthony Greig
Author:	Lindsay Bergsma, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

Council has received a development application from Anthony Greig for a change of use from residential to office at Lot 20 (No. 1) Teede Street, Bunbury. The subject site is zoned “Mixed Business” within which an ‘Office’ is a ‘D’ use.

Since gazettal of the City’s Town Planning Scheme No. 7 (TPS No. 7), the City adopted an interpretation (using discretion) whereby office use would only be permitted within the Mixed Business Zone where it represented either an ancillary use (up to 20% net lettable area) or an extension to an authorised existing office use (up to a maximum of 200m² net lettable area), and that in all other circumstances an office would not be a permitted use. Therefore, no separate, stand-alone office developments have been permitted in the Mixed Business Zone under the current Scheme.

The application submitted for Lot 20 (No. 1) Teede Street is for a separate, stand-alone office in the Mixed Business Zone. It comes at a time when the City is reviewing its requirements for offices in the Mixed Business Zone. A draft new policy has been prepared in relation to the office use within the Mixed Business Zone. The policy intends, within strict qualifying criteria, to broaden favourable application of the discretion to include the changes of use and new building development of small premises for stand alone office developments within a defined part of the Mixed Business Zone.

Because of the City’s review of its requirements for offices in the Mixed Business Zone and the resulting draft policy, this application is being referred to Council for determination. This application is a good example of the type of office that the City can and should allow within the Mixed Business Zone and therefore it is recommended that Council resolve to approve this application.

Background

The subject land is zoned “Mixed Business” and currently there is an existing single house on-site. The zoning of the subject land will remain the same. An office use in the Mixed Business Zone is a ‘D’ use under the City’s TPS No. 7 meaning this is a use that is not permitted unless the local government exercises its discretion and grants planning approval. In this respect the City is guided by the Scheme and any relevant adopted planning polices.

A location plan of the subject lot is **attached** at Appendix 4.

Since gazettal of the City's TPS No. 7, new office development in Bunbury has been restricted mainly to areas zoned "City Centre" and "Shopping Centre" (zones in which an 'Office' is a permitted use). New office developments in the Mixed Business Zone have only been permitted where the office use was, in the opinion of the City, ancillary to a predominant use on the site and such use did not comprise more than 20% of the net lettable area of development on the land or each individual business premises (as stated in clause 5.9.4.2.2 of the Scheme). Also, the City (in exercising its discretion), has only permitted additions and modifications to existing offices within the Mixed Business Zone up to a maximum of 200m² net lettable area (as stated in clause 5.9.4.5.3 of the Scheme). No separate, stand alone office developments have been permitted in the Mixed Business Zone under the current Scheme.

The City is currently reviewing its requirements for offices in the Mixed Business Zone. A draft new policy ('Local Planning Policy – Office Use within the Mixed Business Zone') has been prepared in this regard. The proposed Policy has principally been initiated in order to address the diminishing availability of small and affordable office premises in Bunbury. It also seeks to clarify the application of discretion with regard to offices within the Mixed Business Zone (until such time a new and comprehensive commercial strategy is adopted by the City). The Policy (which is scheduled to appear as a separate item as part of this agenda) intends, within strict qualifying criteria, to broaden favourable application of the discretion to include the changes of use and new build development of small premises for stand alone office developments within a defined part of the Mixed Business Zone.

The Policy is aiming to encourage the viable re-use and refurbishment of many older buildings (particularly single dwellings), some of which may have become less attractive as residences (within an increasingly commercial environment) and are otherwise unsuited for conversion to other types of commercial activity. The Policy is considered both well targeted and sufficiently restricted to enable new opportunities to occur and re-investment to take place at a scale that will not compete with or seriously threaten the commercial primacy of the Central Business District.

The draft Policy has already been considered at the Council Meeting on 18 December 2007 where the decision was made to advertise it for a period of 28 days. Since the advertising period has now closed, the Policy has again been referred to Council (as part of this agenda) for Council's endorsement.

The proposal is for a change of use from residential to office at Lot 20, No. 1 Teede Street, Bunbury. Currently situated on site is a single house with an internal floor area of 106m². No changes are proposed to the building itself. Four car parking bays are proposed at the rear of the existing building with access proposed via a crossover from Zoe Street.

A site plan, floor plan and parking plan are **attached** at Appendix 5, as well as photos of the existing building.

The proposal complies with the requirements of the City's TPS No. 7 in regards to plot ratio, site coverage and car parking. The proposal has also been assessed against the Local Planning Policy "Mixed Business Zone- Areas of Commercial Primacy". The Policy states that applications (such as this application) for discretionary land uses other than residential purposes shall be considered on their individual planning merits.

The proposal was not advertised because it was not required to be advertised by the Scheme. However, adjoining landowner comments were received since the applicant submitted comments from the adjoining landowners in regards to the proposal as part of the planning application. Both of the adjoining landowners have stated that they support the proposed change of use.

Draft Local Planning Policy – Office Use within the Mixed Business Zone

The Draft Local Planning Policy states that the proposal can be considered favourably since the proposal is for a change of use of an existing premises within the relevant area that the Policy applies to and the gross floor area does not exceed 210m² (exclusive of incidental outbuildings). The Policy requirements are also met in that the resulting net lettable floor area of office use on the lot does not exceed 200m².

Strategic and/or Regional Outcomes

The City's 2007–2012 Strategic Plan states that "*The City will ensure that it maintains a comprehensive and fully integrated planning system to meet community expectations.*" In this case, the proposal has been considered in the context of its compliance with current Scheme and has been assessed against the relevant planning policies.

It is considered that the broad direction of the City's 2007–2012 Strategic Plan would not be compromised to any significant extent by supporting the proposed development.

Community Consultation

No community consultation was necessary in this instance. The Scheme did not require the proposal to be advertised. However, adjoining landowner comments in regards to the proposal were submitted by the applicant as part of the planning application. Both of the adjoining landowners stated that they support the proposed change of use.

Councillor/Officer Consultation

This matter has been discussed amongst both the Strategic and Statutory Planning staff as well as with Executive Manager City Development.

Analysis of Financial and Budget Implications

The Recommendation will not impact on the existing Annual Budget nor are there any expenses associated with the proposal from a Council perspective.

Economic, Social, Environmental and Heritage Issues

There are no known environmental implications regarding the proposal. The economic implication is that the proposal will create employment opportunity. The property is not listed under the City's Municipal Inventory. With regard to social implications, there are no foreseeable concerns as a result of this proposal.

Council Policy Compliance

It is considered that the Recommendation does not contravene any known operable Council policy. The relevant Council policies have been discussed above in the 'Proposal' section of this report.

Legislative Compliance

The proposal generally complies with the requirements of the City's TPS No. 7. The land use proposed is discretionary, however, and because of the City's review of its requirements for offices in the Mixed Business Zone and the resulting draft Policy, this application is being referred to Council for determination.

Delegation of Authority

The land use proposed is discretionary, and because of the City's review of its requirements for offices in the Mixed Business Zone and the resulting draft Policy, this application is being referred to Council for determination.

Relevant Precedents

There are no known relevant precedents.

Options

Option 1

Per the officer's recommendation listed in this report.

Option 2

Should Council elect to refuse the proposal, a suggested format is as follows:

"Council, under by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005, hereby resolves to refuse to grant Planning Approval in respect of the proposed change of use from Residential to Office at Lot 20 (No. 1) Teede Street for the reason that the proposed Office use is not ancillary to a predominant use of the land."

Conclusion

Since gazettal of the current Scheme, the City has adopted an interpretation (using discretion) whereby an office use is only permitted within the Mixed Business Zone where it is an ancillary use or an extension to an authorised existing office use. The subject application however, comes at a time when the City is reviewing its requirements for offices in the Mixed Business Zone. A draft new Policy (a separate item of this agenda) has been prepared which proposes to broaden favourable application of the discretion to include the changes of use and new build development of small premises for stand alone office developments within a defined part of the Mixed Business Zone.

Because of the City's review of its requirements for offices in the Mixed Business Zone and the resulting draft Policy, this application is being referred to Council for determination. This application is a good example of the type of office that the City can and should allow within the Mixed Business Zone and therefore it is recommended that Council resolve to approve this application.

Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf of Planning and Development Act 2005, resolves to grant Planning Approval for the proposed change of use from 'Residential' to 'Office' at Lot 20 (No. 1) Teede Street, Bunbury, subject to standard conditions and satisfaction of the City's Manager of Development Services.

Outcome of the Council Committee Meeting - 19 February 2008

The Presiding Member advised meeting members that the applicant, Mr Anthony Greig, was in attendance at the meeting and had offered to make himself available to answer any questions. There were no questions.

The recommendation was moved Cr Dillon, seconded Cr Punch. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf of Planning and Development Act 2005, resolves to grant Planning Approval for the proposed change of use from 'Residential' to 'Office' at Lot 20 (No. 1) Teede Street, Bunbury, subject to standard conditions and satisfaction of the City's Manager of Development Services.

CARRIED

12 Votes "For" / Nil Votes "Against"

11.3 PROPOSED 9-STOREY MIXED USE DEVELOPMENT (MULTIPLE DWELLINGS & OFFICES) LOT 51 DP: D100208, LOT 52 DP: D100208, LOT 102 DP: 53211 CLIFTON/WITTENOOM STREETS, BUNBURY

File Ref:	P01795
Applicant/Proponent:	Burswood Investments Pty Ltd
Author:	Ann Jank, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has recently received a Planning Application from Burswood Investments Pty Ltd (refer to the Confidential Report for names of company directors) for a new 9-storey "Mixed Use" residential and commercial development on the corner of Clifton and Wittenoom Streets, Bunbury. A location plan is **attached** at Appendix 6.

The proposed development comprises 9 storeys with ground floor offices and 8 storeys of multiple dwellings containing a total of 21 apartments. The development includes car parking and residential storage areas on ground level of the balance of the lot.

The proposed development achieves an overall plot ratio of 1.44 which is in accordance with the overall plot ratio requirements under Town Planning Scheme No. 7 (TPS7). The scheme provides for a plot ratio of 3.5 in the City Centre zone.

In accordance with TPS7 residential development in the City Centre zone may be constructed up to R100 development standards of the Residential Design Codes (RDC) 2002. Therefore the plot ratio is limited to 1.25. The proposed development includes a plot ratio of 1.29 for the residential component. It is considered that the increased residential plot ratio is appropriate for the proposed development.

It is recommended that Council approve the proposed development including the plot ratio of 1.29 for the residential component. The deviation is only minimal and the development is considered adequate in regard to overall residential amenity. Conditions of approval are **attached** at Appendix 7.

The proposed development was advertised for public comment for a 15-day period including advertising notices on-site, letters to adjoining owners and in the local newspaper. Five submissions have been received from nearby property owners.

The proposed design is generally considered acceptable and it is recommended that Council approve the development with a plot ratio of 1.44 for the overall development including a plot ratio of 1.29 for the residential component.

Background

In accordance with TPS7 the subject land is zoned 'City Centre' and the proposed Mixed Use Development including Multiple Dwelling and Office are permitted uses providing compliance with TPS7 and the RDC 2002.

The sites are currently developed with 2 office buildings and vacant land behind an existing 3-storey building containing multiple dwellings.

It is recommended that a condition be included on the approval requiring amalgamation of all subject lots prior to the issue of a building licence.

The proposed development comprises 9 storeys with ground floor offices and 8 storeys of multiple dwellings containing a total of 21 apartments. There are 6 one-bedroom apartments, 6 two-bedroom apartments, 8 three-bedroom apartments and 1 penthouse (4 bedrooms) proposed. The development includes car parking and residential storage areas on ground level of the balance of the lot. Site/floor plans and elevations are **attached** at Appendix 8.

The building is situated on the corner of Clifton and Wittenoom Streets and provides a spacious entrance directly on the corner and half round balconies above. The residential component is setback from the street (4.5m to Wittenoom Street and 2.8m to Clifton Street) to provide a sense of human scale at pedestrian level.

The following criteria are considered relevant in terms of properly considering the matter.

Setbacks

The building design includes a parapet wall to the northern boundary and no objection has been received from the adjoining owners. All other setbacks are in line with requirements of the RDC 2002. The building is also stepped back further from the side boundaries on an incremental basis as the building increases in height.

The RDC 2002 (Visual privacy) "acceptable development" provisions require a 4.5 metre setback for bedroom windows with major openings, a 6.0 metre setback for habitable rooms with major openings and 7.5 metres to balconies to avoid overlooking of adjoining residential properties behind its street setback line. The proposal complies with these requirements.

Submissions received during the advertising period outlined concerns with the proposed building height and potential loss of views, wind shear and reduced land values for existing developments in the area.

In terms of impacts on views for adjoining properties, it is generally acknowledged that views cannot be guaranteed as a significant planning consideration. The proposed development is appropriately setback in accordance with TPS7 and RDC 2002 requirements.

Building Height

The proposed development achieves an overall plot ratio of 1.44. This is in accordance with the overall plot ratio requirements under TPS7 which provide for a plot ratio of 3.5 in the City Centre zone.

In accordance with TPS7 residential development in the City may be constructed up to R100 development standards of the Residential Design Codes (RDC) 2002. Therefore the plot ratio is limited to 1.25. The proposed development includes a plot ratio of 1.29 for the residential component. It is considered that the increased residential plot ratio is appropriate for the proposed development.

Provision of increased residential densities is consistent with contemporary planning principles of sustainable urban development. These include increased activity life and vitality in City centres, reducing transport and infrastructure costs and travel time with people living closer to work, services and recreational facilities.

The proposed building height is consistent with the City Vision Strategy for buildings in the CBD. The City Vision Building height recommendation states:

“That height in the commercial core of the CBD defined as both sides of Wittenoom, Stephen, Victoria and Carey Streets is determined on the basis of complementary development with the Bunbury Tower and the Old Silos hotel development”.

The Bunbury Tower has an overall height of 68.7 metres and the Silos Hotel development has a height of 30.8 metres. The proposed development with an overall height of 30.6 metres is lower than both the Silos and the Bunbury Tower.

Car Parking and Access

In accordance with TPS7 requirements the applicant is required to provide a total of 47 car parking spaces containing 7 spaces for offices and 40 bays for the residential component. The proposed development plan includes provision of 51 car parking spaces which complies with the requirements.

It is noted that the proposed car parking layout will require some modification to increase the width of end bays and provide adequate turning areas which may require removal of some parking bays.

The development proposes all vehicle access from Wittenoom Street with two crossovers and a one-way system for access and egress.

Submissions received during the advertising of the proposal outlined concerns with increased noise levels, increased traffic and potential for traffic conflicts. The proposed access and car parking arrangement is considered suitable and provision of two crossovers with a one-way system will minimise potential for traffic conflicts.

Traffic management is not considered to be a significant issue in regard to the proposed development and can be appropriately addressed as a condition of planning approval (as recommended by the Engineering Department) which requires a Traffic Management Study for the development prior to the building licence being issued.

On balance therefore Development Services considers that the proposed development format is in order and it is proposed that a conditional approval should be issued.

Strategic and/or Regional Outcomes

It is considered that the broad direction of the City's 2007-2012 Strategic Plan would not be compromised to any significant extent by supporting the proposed development.

Community Consultation

The proposed development was advertised for public comment for a 15-day period including advertising notices on-site, letters to adjoining owners and in the local newspaper and 5 submissions were received. A schedule of submissions is **attached** at Appendix 9.

The submissions were from residents or owners of nearby existing properties. The submissions generally outline concerns with the proposed development in regard to:

- Proposed building height with potential loss of views and reduced privacy from existing properties
- Increased traffic conflicts and noise.
- Overshadowing
- Wind tunnel effects
- No buffer zone to residential R40

The issues raised in the objections are noted and have been addressed within the submission schedule. However, the proposed development is considered by Development services staff to be satisfactory.

In terms of impacts on views for adjoining properties, it is generally acknowledged that views cannot be guaranteed as a significant planning consideration.

The building height is consistent with the City Vision Central core where development is to be determined on the basis of being complementary with the Bunbury Tower and the Silos development. The proposal is also situated within the City Centre zone and is considered to have less impact on the adjoining properties than a commercial development including retail or restaurants with the same scale. It is considered that no buffer is required between residential developments.

In terms of impact of vehicles and noise, generally access to the development is proposed from Wittenoom Street and any impact on adjacent properties will be minimal. Adequate car parking is provided on-site for the proposed development and is generally in excess of TPS7 requirements.

Overshadowing requirements as per RDC 2002 are in relation to residential properties. The concerned properties are office buildings situated south of the proposed development hence overshadowing is not considered relevant in regard to submissions from adjoining residential properties.

The overall plot ratio (of 1.44), building bulk and height including the residential component is less than what could be proposed to accommodate for a wholly commercial development with a plot ratio of 3.5 and is therefore considered appropriate next to a Residential zone.

Councillor/Officer Consultation

This matter has been reviewed by Council staff within the Development Coordination Unit meetings consisting of officers from Engineering, Planning, Building and Health. Further discussions have taken place with Senior Planner (Statutory) and Manager Development Services.

Analysis of Financial and Budget Implications

The officer's recommendation in this report will not impact on the existing Annual Budget nor are there any expenses associated with the requests from a Council perspective.

Economic, Social, Environmental and Heritage Issues

In economic terms, the proposal will provide economic benefit during the construction phase of the development and also future employment opportunities in the proposed commercial tenancies. There are no known environmental impacts that would result from the construction of the development. There are no heritage issues relative to the proposed development.

Council Policy Compliance

It is considered that the officer's recommendation does not contravene any known operable Council policy.

Legislative Compliance

The proposal requires a variation of Town Planning Scheme No. 7 and the Residential Design Codes 2002 to increase the plot ratio provision for the residential component of the development from 1.25 to 1.29.

Delegation of Authority

It is considered that delegation of authority would not apply in this case.

Relevant Precedents

Council recently approved development on Lot 34 (No. 12) Victoria Street including a plot ratio of 2.0 in a 14-storey "Mixed Use" development.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council may elect to refuse the proposal. A suggested format for such action is as follows:

"Council, under and by virtue of the powers conferred upon it in that behalf under the Town Planning and Development Act 2005, resolves to refuse to grant approval to Burswood Investments Pty Ltd for a new 9-storey Mixed Use (Multiple Dwellings & Offices) Development on Lot 51 (No. 18A) Clifton Street, Lot 52 (No. 20) Clifton Street and Lot 102 (No. 11A) Wittenoom Street, Bunbury, as the proposed design does not comply with City's Town Planning Scheme No. 7 which requires a maximum plot ratio of 1.25 for multiple dwelling development under the R100 Code."

Conclusion

The proposed development achieves an overall plot ratio of 1.44. This is in accordance with the overall plot ratio requirements under TPS7 which provide for a plot ratio of 3.5 in the City Centre Zone.

The proposed plot ratio is 1.29, therefore the deviation is only minimal and the development is considered adequate in regard to overall residential amenity. The proposed building height is consistent with City Vision Strategy for buildings in the commercial core of the CBD to be consistent with the existing Bunbury Tower and Silos buildings. The proposal also complies with setback and visual privacy requirements of the RDC 2002.

Provision of increased residential densities is consistent with contemporary planning principles of sustainable urban development. These include increased activity life and vitality in City centres, reducing transport and infrastructure costs and travel time with people living closer to work, services and recreational facilities.

Adequate car parking is provided on-site for the proposed development and is generally in excess of TPS7 requirements.

It is recommended that Council approve the proposed development including the plot ratio of 1.29 for the residential component.

Recommendation

Council under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, resolves to grant planning approval to Burswood Investments Pty Ltd for a new 9-storey Mixed Use (Multiple Dwellings & Offices) Development on Lot 51 (No. 18A) Clifton Street, Lot 52 (No. 20) Clifton Street and Lot 102 (No. 11A) Wittenoom Street, Bunbury, subject to conditions as stated in this report to Council.

Outcome of the Council Committee Meeting - 19 February 2008

The Presiding Member invited public speakers to comment on the proposal.

Wittenoom Street resident, Ms Elizabeth Harper, addressed the committee. Ms Harper's home is located opposite the development site and she spoke on behalf of other residents living in her street who are also opposed to the development in its current form.

Ms Harper considers that a 9-storey development located directly across the street from a residential precinct will be detrimental to the amenity of the area. The shadow the new development will cast will be much greater than that of the existing flats located in front of the development site and these already keep some homes in Wittenoom Street in the shade during the winter months. Ms Harper is also concerned that one of the vehicle exit points for the development is to be located directly opposite her elderly neighbour's bedroom window which will cause problems at night due to excessive vehicle light/noise. Other concerns raised by Ms Harper on behalf of residents in the street included the possible increase in wind speeds and lack of privacy that would be created due to the height of the building which they believe to be excessive.

During discussion of this matter the following points were raised:

- The new 9-storey building is to comprise mainly residential apartments in keeping with the City Vision Strategy i.e., residential development in the CBD to be encouraged in order to bring life and vitality back to the City Centre.
- The new development is situated within the "Central Core" of the CBD that has been identified in the City Vision Strategy as suitable for high-rise buildings. There was some dispute as to whether both sides of Wittenoom Street are actually zoned "CBD" as stated on page 53 of the City Vision Strategy.
- It was pointed out that refusing the development solely on the grounds that it will affect the amenity of the local area may allow the applicant to successfully appeal to the State Administrative Tribunal.
- A traffic management plan for the development will be requested before a Building Licence is issued and any problems with vehicle entry/exit points would be addressed at that time.

- It would be hard to refuse this application as a 15-storey government building exists in close proximity and the Council has recently approved other high-rise within walking distance in the CBD.
- It was confirmed that this development is permitted under Town Planning Scheme No. 7 except that a minor variation is required to the plot ratio for the residential component.
- A request was made for all councillors to receive a report on 'overshadowing projections' for the building and for a Dilapidation Survey to be included as a condition of approval.

The recommendation was moved Cr Dillon, seconded Cr Craddock to become the motion under discussion.

During discussion, Cr Rooney suggested an amendment to include the words "*The applicant to undertake a Dilapidation Survey of nearby buildings and residential properties as determined at the discretion of Executive staff.*" The mover and seconder agreed to include this as part of their motion.

The Presiding Member put the motion (now amended) to the vote and it was adopted (9 votes "for" to 3 votes "against") to become the Committee's recommendation on this issue.

The votes were recorded as follows:

For: Mayor David Smith and Crs Craddock, Jones, Dillon, Rooney, Punch, Whittle, Slater and Leigh

Against: Crs Worthington, Kelly and Steck

Committee Recommendation

Council under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, resolves to grant planning approval to Burswood Investments Pty Ltd for a new 9-storey Mixed Use (Multiple Dwellings & Offices) Development on Lot 51 (No. 18A) Clifton Street, Lot 52 (No. 20) Clifton Street and Lot 102 (No. 11A) Wittenoom Street, Bunbury, subject to:

1. *Conditions as stated in this report to Council.*
2. *The applicant to undertake a Dilapidation Survey of nearby buildings and residential properties as determined at the discretion of Executive staff.*

CARRIED

9 Votes "For" / 3 Votes "Against"

11.4 DRAFT CITY OF BUNBURY LOCAL PLANNING STRATEGY FOR HERITAGE AND CHARACTER

File Ref:	A00538
Applicant/Proponent:	Internal Report
Author:	Leigh Barrett, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

There are a large number of buildings with significant heritage value located within the City of Bunbury. The City of Bunbury Municipal Inventory 2001 includes over 280 places, 172 of which are considered to be significant enough to be included on the Heritage List attached to Town Planning Scheme No. 7 providing them with the added protection of the provisions of the Scheme.

Over recent years the level of demand for redevelopment of these heritage places has increased resulting in the need to review and update the City's heritage policies and procedures to facilitate redevelopment whilst ensuring clear, consistent and appropriate mechanisms to identify, protect and manage significant heritage areas and sites within the City of Bunbury.

The City of Bunbury Local Planning Strategy for Heritage and Character (adopted by Council 6 November 2007) comprises a number of statutory and non-statutory mechanisms by which the City of Bunbury will identify, protect and manage significant heritage and cultural areas and sites for current and future generations. The Strategy comprises three revised and four additional Local Planning Policies. Of particular note is the Local Planning Policy – Stirling Street Heritage Area. The Stirling Street Heritage Area is under considerable and increasing development pressures. It is considered that a full review of the Stirling Street Heritage Area, including boundaries, assessment of the level of contribution of each place within the Area and a complete revision of the design guidelines is required. This will require the engagement of a suitably qualified heritage professional to ensure that the resulting policy and design guidelines are clear, concise and accurate and provide appropriate information regarding potential development within the area for landowners, the Local Government.

These Local Planning Policies have been advertised for public comment and are now presented to Council for adoption.

Background

At its meeting of 6 November 2007, Council made the following decision:

- "1. *Adopt the draft City of Bunbury Local Planning Strategy for Heritage and Character.*
2. *Council undertake a public information session on issues relating to the Bunbury Local Planning Strategy for Heritage and Character and policies referred to in point 3 below.*
3. *Adopt for public advertising the following draft Local Planning Policies for a period of 28 days in accordance with the provisions of Part 2 of TPS 7 and pursuant to the Planning and Development Act 2005:*
 - (a) *Local Planning Policy – Assessment of Cultural Heritage Significance;*
 - (b) *Local Planning Policy – Heritage Conservation and Development Policy – Heritage Places;*
 - (c) *Local Planning Policy – Development Assessment Process for Heritage Places;*
 - (d) *Local Planning Policy – Heritage and Conservation Policy – Stirling Street Heritage Area;*
 - (e) *Local Planning Policy – Variation to Local Planning Scheme and Residential Design Codes;*
 - (f) *Local Planning Policy – Application Fees for Planning Approval of Heritage Places;*
 - (g) *Local Planning Policy – Heritage Rate Concession."*

These policies are summarised below:

- (a) Local Planning Policy – Assessment of Cultural Heritage Significance

This LPP details the manner in which heritage places within the City of Bunbury will be assessed for heritage value. Compliance with this policy will ensure that assessments are accountable, comparable and consistent.

- (b) Local Planning Policy – Heritage And Conservation Development Policy – Heritage Places

This policy sets out how the City of Bunbury will conserve and protect places of cultural heritage significance by seeking to ensure that heritage matters are given due weight in decision-making. It includes the existing Heritage Buildings Design Guidelines which will be reviewed and revised as part of the Municipal Inventory Review process.

- (c) Local Planning Policy – Development Application Assessment Process for Heritage Places

This is a revised policy based on the existing Development Process for the Assessment of Places of Heritage Value in the City of Bunbury.

- (d) Local Planning Policy – Heritage and Conservation Development Policy – Stirling Street Heritage Area

The Stirling Street area was identified as a heritage precinct in the draft Municipal Inventory in 1994 and in the Municipal Inventory adopted by Council in 1996. Its current boundary was adopted by Council in accordance with the provisions of Town Planning Scheme No 7 in April 2003. This LPP, whilst proposing a modified boundary, seeks to protect the values of the heritage area and includes the existing Design Guidelines for Heritage Areas which will be reviewed and revised as part of the Municipal Inventory and Precinct review processes.

- (d) Local Planning Policy – Development Application Assessment Process for Heritage Places

This is a revised policy based on the existing Development Process for the Assessment of Places of Heritage Value in the City of Bunbury.

- (e) Local Planning Policy – Variation to Local Planning Scheme and Residential Design Codes

Town Planning Scheme No 7 allows for variations to provisions of the scheme and the Residential Design Codes in order to facilitate a positive heritage outcome. This policy reiterates those provisions.

- (f) Local Planning Policy – Application Fees for Development of Heritage Places

This policy details the circumstances under which the City of Bunbury will waive planning and/or building applications fees for the development of heritage places or places located within a heritage area. This will ensure that owners of heritage places are not required to pay fees that would not otherwise be incurred and provide a small financial incentive for the appropriate development of a heritage place.

- (f) Local Planning Policy – Heritage Rate Concession

The City of Bunbury has had a rate concession policy in place for a number of years. This revised policy facilitates the greater availability of the rate concession as a means of rewarding owners for undertaking appropriate conservation works.

Public Information Session

As required by Council, a public information session was held in the City of Bunbury Function Room at 5.30pm on Wednesday, 5 December 2007. Forty-eight people attended the session. The City's Strategic Planning Officer responsible for heritage matters addressed the group on each of the seven proposed Local Planning Strategies and questions from the floor were addressed by either the Strategic Planning Officer, the Manager Development Services, the Mayor David Smith or the Regional Heritage Advisor. As it was the aim of the session to provide advice and answer questions specifically with respect to the seven LPPs, those in attendance were also given the opportunity to ask questions or make statements in writing regarding general heritage issues or if they preferred not to ask questions from the floor. Six questions and four statements were received and are included in the Schedule of Submissions.

Public Advertising

The seven proposed local planning policies were advertised for 28 days ending on 21 December 2007.

Twenty-five submissions were received, six of which were received after the closing date. A Schedule of Submissions is **attached** at Appendix 10.

The submissions related primarily to the Stirling Street Heritage Area. Councillors will recall that proposed Local Planning Policy – Stirling Street Heritage Area incorporates the modification of the boundary of the existing Stirling Street Heritage Precinct resulting in a heritage area in which the assessed aesthetic, historic and social values are clearly and strongly represented. Of the eight submissions expressing support, most referred specifically to the modifications to the boundary of the Stirling Street Heritage Area whilst four submissions expressed the view that the boundary of the Stirling Street Heritage Precinct should remain as it is. Four submissions simply made comment on the policies without expressing an opinion for or against. Eight submissions received were related to the inclusion of particular properties on the Municipal Inventory and/or Heritage List or within the Stirling Street Heritage Area. These submissions will be addressed at the time of the Municipal Inventory review.

Strategic and/or Regional Outcomes

The City of Bunbury community values its significant cultural heritage assets. This has been highlighted through the City Vision process during which the community identified the following social goal:

To plan and develop cohesive, inclusive, educated and healthy communities with a strong sense of place, access to all essential services and facilities and housing to meet diverse needs”.

The identification, protection and management of significant heritage and cultural areas and sites were considered to be one of nine objectives required to meet this goal, specifically: Identify, protect and manage significant heritage and cultural areas and sites.

The provisions of the draft City of Bunbury Local Planning Strategy for Heritage and Character identify the means by which the City will meet the above objective.

Community Consultation

A three month public advertising period was undertaken between December 2006 and March 2007. Fifty-six submissions were received.

Councillor/Officer Consultation

Council adopted the City of Bunbury Local Planning Strategy for Heritage and Character at its meeting on 6 November 2007.

The matter has been canvassed widely at staff level and with the Regional Heritage Advisor, the Heritage Council of Western Australia and the City of Bunbury Heritage Committee with a view to gaining maximum input into the decision making process.

A number of Councillors attended the public information session on 5 December 2007.

Analysis of Financial and Budget Implications

Adoption of the policies will have budgetary implications to the extent that the City will continue to offer a heritage rate concession to eligible owners and planning fees will be waived for eligible applications.

Economic, Social, Environmental and Heritage Issues

There are no perceived environmental or social issues associated with this proposal.

Some economic benefit would result from any construction associated with the proposed redevelopment however, this would also an existing residence is retained and the remainder of the site redeveloped.

Heritage issues form the basis of this proposal and are the subject of this report and the draft strategy.

Council Policy Compliance

The following Council policies relate to this report:

1. Local Planning Policy – Heritage Building Design Guidelines

2. Local Planning Policy – Design Guidelines for Heritage Areas.
3. Local Planning Policy – Development Process for the Assessment of Places of Heritage Value in the City of Bunbury

Part 7 of Town Planning Scheme No. 7, including the Heritage List, and the City of Bunbury Municipal Inventory 2001 also relate.

Legislative Compliance

Legislative requirements relating to the Local Government Act or any other Act, Local Law, or regulations have been complied with in the processes leading up to the finalisation of this report.

Delegation of Authority

The Chief Executive Officer does not have the delegated authority of the Council to resolve this issue.

Relevant Precedents

There are no relevant precedents.

Options

No alternative options can be provided.

Conclusion

The seven proposed Local Planning Policies will enable the City to better manage its heritage values for current and future generations. The policies were advertised with the draft Local Planning Strategy for Heritage and Character in from December 2006 to March 2007 and again in accordance with the provisions of Town Planning Scheme No. 7 in November and December 2007. A public information session has also been held. It is now considered appropriate that the draft Local Planning Policies be adopted by Council.

Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, resolves to adopt the following City of Bunbury Local Planning Policies:

1. Local Planning Policy – Assessment of Cultural Heritage Significance;
2. Local Planning Policy – Heritage Conservation and Development Policy – Heritage Places;

3. Local Planning Policy – Development Assessment Process for Heritage Places;
4. Local Planning Policy - Heritage Conservation and Development Policy – Stirling Street Heritage Precinct;
5. Local Planning Policy – Variation to Local Planning Scheme and Residential Design Codes;
6. Local Planning Policy – Application Fees for Planning Approval of Heritage Places;
7. Local Planning Policy – Heritage Rate Concession

Outcome of the Council Committee Meeting - 19 February 2008

Councillor Whittle disclosed an impartiality interest and interest-in-common as his residence is located in a proposed future heritage precinct under the strategy. He elected to remain at the meeting to take part in the discussion and vote on this item as he considers this to be an interest that he holds in common with many other ratepayers, the recommendation does not specifically relate to his place of residence, and, the financial impact of heritage policies is disputed by the Council.

The Presiding Member invited public speakers to comment on the proposal.

- Ms Sonia Burns of 103 Stirling Street referred to submission 15 on page 11 of the *Schedule of Submissions* and requested that homes located from 93 to 117 Stirling Street be removed from the heritage precinct. Ms Burns asked how the criteria for determining the heritage precinct had been formulated.
- Mr Jason Majkic owner of 111-113 Stirling Street indicated that his buildings are currently listed for inclusion in the precinct yet some of those that have been removed from the list are quite a lot older than his. He understands that his buildings only came to be on the list due to the outside toilets. However, the toilets no longer exist as they were destroyed by one of the building's tenants.

The City's Executive Manager of City Development advised that the assessment of the heritage area was based on criteria established in consultation with a fully qualified Heritage Architect and he will provide background information to elected members at the subsequent Council Meeting.

During discussion it was revealed that the Council's Heritage Advisory Committee has not yet had the opportunity to review the City of Bunbury Local Planning Policies relating to heritage and character. The committee was disbanded prior to the election in October 2007 (a statutory requirement) and has not been able to meet since as community representatives needed to be appointed by the Council. It received its full complement of members on 5 February 2008 and a meeting is to be held soon.

An alternative to the recommendation was moved Cr Steck, seconded Cr Craddock. The Presiding Member put the 2 parts of the motion to the vote separately and they were adopted to become the Committee's recommendation on this matter. The results of the vote were:

Part 1: Carried 10 Votes "For" / 2 Votes "Against"

Part 2: Carried 9 Votes "For" / 3 Votes "Against"

The Committee's recommendation (in full) is provided below.

Committee Recommendation

- 1. Council defer its decision to adopt the Heritage Precinct Policy until after the draft policy has been referred to the Heritage Advisory Committee (which includes Crs Whittle and Kelly).*
- 2. The review of the Design Guidelines should be supplied in draft together with the Heritage Precinct Policy prior to any further consideration of the policy.*

CARRIED

11.5 GRAND CANALS SUBDIVISION - ABORIGINAL HERITAGE ISSUE

File Ref:	A01981
Applicant/Proponent:	Department of Indigenous Affairs
Author:	Ben Deeley, Environmental Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City of Bunbury has been advised by the Department of Indigenous Affairs that under Section 18 of the *Western Australian Aboriginal Heritage Act 1972*, Ministerial consent is required in order to lawfully undertake works that will disturb canal beds in the Grand Canals Subdivision at Pelican Point, Bunbury. It is understood that this requirement extends to any canal maintenance dredging that the City of Bunbury may need to undertake in the future and will also apply to all private jetty developments within the subdivision.

The Department of Indigenous Affairs has further advised that the City of Bunbury could seek approval to undertake its maintenance dredging works and all private jetty developments under the one process entitled an 'Omnibus Section 18 Notice' in order to reduce duplication of process and cost.

It is proposed that the Council allocate \$15,000 from its Canal Management Reserve to Operating Budget "Heritage & Culture Projects" (General Ledger No. 21082.100) to fund the preparation of an Omnibus Section 18 Notice for the Grand Canals subdivision.

Background

In 2007, the City of Bunbury issued planning approval for two separate jetty proposals in the Grand Canals subdivision with conditions/advice notes relating to Aboriginal heritage due to the likelihood that both proposals would impact on the Collie River "Ngarngungudditj Waugal" Aboriginal Heritage Site. It is understood that the respective proponents subsequently contacted the Department of Indigenous Affairs and were advised that Ministerial approval (under Section 18 of the WA Aboriginal Heritage Act 1972) would be required in order to lawfully proceed.

The City of Bunbury met with representatives from the Department of Indigenous Affairs on 15 November 2007 to discuss the matter further. The City was advised as follows:

- All future proposals that may disturb canal beds in the Grand Canals Subdivision will require Ministerial consent (under Section 18 of the Act) before they can lawfully proceed
- Given that more jetties are likely to be proposed within the Grand Canals subdivision (approximately 30% of properties within the subdivision currently have jetties, theoretically, 95 jetties remain to be developed) one potential solution would be to prepare an 'omnibus' notice for the entire subdivision for consideration by the

Minister for Indigenous Affairs rather than have each individual landowner repeat the process.

- The omnibus notice would involve the same process as required of individual landowners including consultation with relevant Aboriginal Elders and a consultants report at an estimated cost of \$12,000.
- Whilst the Department cannot expedite the process, it will provide in-kind support where possible.

On 25 January 2008, the Department of Indigenous Affairs clarified its earlier advice indicating that Ministerial consent under Section 18 of the Act is required for the City of Bunbury to lawfully undertake any future maintenance dredging within the canals. Whilst maintenance dredging has not been undertaken within the canals to date, Council currently applies a Special Area Rate to the subdivision to provide for such works in the future.

The Department of Indigenous Affairs further advised that the City of Bunbury could seek approval to undertake its maintenance dredging works and all private jetty developments through an Omnibus Section 18 Notice in order to reduce duplication of process and cost.

It is proposed that Council allocate \$15,000 from its Canal Management Reserve in order to provide for the preparation of the omnibus notice with any surplus funds to be returned to the Canal Management Reserve upon completion of the project.

The omnibus process would be identical to the process that individual landowners would be required to undertake should this option not be progressed. The preparation of an omnibus notice would provide for Ministerial consideration of these activities through the one process thus avoiding considerable duplication of process and expense to individual landowners.

Strategic and/or Regional Outcomes

The proposal complies with the *City of Bunbury Strategic Plan 2007-2012* through Strategies 6.3 "Community Planning and Infrastructure" and 2.1 "Improve Accountability" by ensuring observance of cultural needs and compliance with the City's statutory obligations.

Community Consultation

Consultation has occurred with the two proponents who currently seek to construct jetties within the Grand Canals Subdivision. Local Noongar Elders, the Honourable Member for Bunbury and the Department of Indigenous Affairs have also been consulted.

Councillor/Officer Consultation

The Chief Executive Officer, Executive Manager City Development, Manager Development Services, Senior Planner and Environmental Officer have had involvement with the issue to date.

Analysis of Financial and Budget Implications

The City of Bunbury has been advised by the Department of Indigenous Affairs that the omnibus notice will cost approximately \$12,000 to prepare. Of this, approximately \$5,000 is required for consultation purposes with relevant local Aboriginal Elders as determined by the South West Aboriginal Land and Sea Council and Department of Indigenous Affairs.

As the \$12,000 figure is purely an estimate, it is proposed that Council allocate \$15,000 from its Canal Management Reserve to the “Heritage & Culture Projects” Operating Budget (General Ledger No. 21082.100). All surplus funds will be returned to the Reserve upon completion of the project.

Council’s Canal Management Reserve is funded via a Special Area Rate applied over the Grand Canals Subdivision. The Canal Management Reserve’s purpose is *“To receipt Differential Rating or Specified Area Rating from the Pelican Point Canal Development to provide for the ongoing management and maintenance of the Canal residential and commercial area”*.

Economic, Social, Environmental and Heritage Issues

No further economic, social, environmental or heritage issues are thought to be of relevance to the proposal.

Council Policy Compliance

There is no applicable Council Policy.

Legislative Compliance

An Absolute Majority Vote of the Council will be required to transfer funds from the Canal Management Reserve as proposed.

Delegation of Authority

This matter has been referred to the Council as the Chief Executive Officer does not have the delegated authority of the Council to undertake the actions required.

Relevant Precedents

Not applicable.

Options

Option 1

Per the officer’s recommendation as listed in this report.

Option 2

1. The City of Bunbury is to prepare a notice under Section 18 of the *Western Australian Aboriginal Heritage Act 1972* for maintenance dredging of canals within the Grand Canals Subdivision, Pelican Point, as and when required.
2. Individual landowners of the Grand Canals Subdivision are to undertake their own process for Ministerial consent to develop jetties within the subdivision.

Conclusion

Ministerial approval under section 18 of the WA Aboriginal Heritage Act 1972 is required in order to lawfully undertake works that may disturb canal beds within the Grand Canals Subdivision. This requirement applies to the City of Bunbury's future canal maintenance dredging works and all private jetty developments within the subdivision.

Option 1 is favoured over Option 2 as it will provide for Ministerial consideration of these activities at the one time thus avoiding considerable duplication of process and expense to individual landowners.

Recommendation

Council allocates \$15,000 from its Canal Management Reserve to Operating Budget "Heritage & Culture Projects" (General Ledger No. 21082.100) in order to provide for the preparation of an Omnibus Section 18 Notice for the Grand Canals subdivision.

Outcome of the Council Committee Meeting - 19 February 2008

The recommendation was moved Cr Craddock, seconded Cr Leigh to become the motion under discussion.

The following points were raised during discussion:

- Under the Aboriginal Heritage Act 1972 regardless of whether a piece of land is publicly or privately owned and irrespective of its use, if you want to disturb the soil you must first get Section 18 approval.
- The Council may have difficulty in obtaining an Omnibus Approval as it will need to provide details of the extent of dredging to be done and the cost of the project - these details are not yet available. In addition, the City does not yet have EPA approval to undertake dredging and there has been no determination on where to dispose of spoil.

The Presiding Member put the motion to the vote and it was defeated 4 votes "for" to 8 votes "against".

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The votes were recorded as follows:

For: Crs Craddock, Kelly, Whittle and Leigh

Against: Mayor David Smith and Crs Jones, Dillon, Rooney, Worthington, Punch, Slater and Steck.

11.6 TENDER RFT 2007/2008-04 - BUILDING AND GENERAL ELECTRICAL SERVICES FOR MAINTENANCE AND MINOR WORKS

File Ref:	A02360
Applicant/Proponent:	Internal Report
Author:	Mark Robson, Contracts Coordinator
Executive:	Michael Scott, Executive Manager City Services

Summary

It is proposed to invite suitably qualified companies to tender for general electrical services and minor works required to maintain the City's assets as the current electrical services contract is nearing its expiry date.

Background

The invitation to tender was advertised in *The West Australian* and the *South Western Times* on 9 and 10 January 2008. The tender requires submission of a "Schedule or Rates" from qualified electrical contractors to undertake general electrical and minor works required to maintain the City's assets. The schedule is to include routine and after-hours emergency work. The tender has been divided into four parts with contractors invited to submit a price on one or any of the four components, which are:

1. All electrical works associated with domestic-type installations such as Christmas lighting, libraries, South West Sports Centre, health clinics, the Council Chambers Building and various other Council-owned buildings and assets within the City of Bunbury.
2. Street lighting including lighting in public open spaces, townscape lighting (e.g., Bicentennial Square, Back Beach, Marlston Hill, council car parks, etc.) but does not include street lighting maintained by Western Power.
3. All electrical works associated with industrial installations including 3-phase pump motors and switchgear.
4. Reticulation bore pumps and low voltage switch and control gear.

Tenders closed at 3:00pm on Thursday, 31 January 2008. The City's Manager of Building Construction and Maintenance, and, the Contracts Coordinator opened the tender box.

Tender documents were issued to seven (7) companies. The following three (3) local companies responded:

Bricknell Electrics, c/- 50 Mindalong Close, Bunbury
Jandco Electrics, 3 Gibbons Road, Bunbury
Barry Allen Electrical Services, 2/15 Leichardt Street, Bunbury

Term of Contract

The contract shall be in force for a period of one (1) year with an option to extend for a further three (3) years comprising 1-year intervals; subject to the superintendent's discretion and satisfactory performance by the contractor.

A panel comprising the Manager of Building Construction and Maintenance and the Contract Coordinator, assessed the tenders received which were evaluated using the following criteria:

- Compliance
- Qualitative
- Price

Compliance Criteria

- (a) Will you be able to comply with the specification contained in this request?
- (b) Have you complied with the conditions of tendering contained in this request?
- (c) Have you complied with and completed the price schedule?

Tenderer	(a) Compliance with Specification	(b) Compliance with Conditions of Tendering	(c) Completed the Price Schedule
Bricknell Electrics	Yes	Yes	Yes
Jandco Electrics	Yes	Yes	Yes
Barry Allen Electrical Services	Yes	Yes	Yes

Qualitative Criteria

The qualitative criteria for this request are as follows:

Description of Qualitative Criteria	Weighting
a) Tenderers shall as a minimum, give details as to: 1. Staff availability for emergency work during normal hours 2. Methodology for meeting requirements for all after hours work 3. Contingency plan to be set in place if and when contractor is absent	3

b) Skills and experience of personnel and experience in supplying similar requirements. Tenderers should provide as a minimum information	
1. Their role in the performance of this Contract Curriculum vitae	
2. Membership to any professional or business association	
3. Qualifications with particular emphasis on experience of personnel in projects of a similar requirement	
4. Provide details of similar service provision	
5. Provide at least three names and contact details for referees of similar works	
c) Tenderers should provide an outline of their proposed methodology	1
d) Tenderer's resources	1
e) Compliance with safety requirements of this RFT	2

Price

Evaluation of the tender prices (and ranking) has been undertaken. However, as this information is commercial-in-confidence, details are provided in a Confidential Report circulated to members under separate cover.

Strategic and/or Regional Outcomes

The proposal reflects strategies in the *City of Bunbury Strategic Plan 2007-2012* by continuing to maintain and service the City's assets and infrastructure.

Community Consultation

Community consultation was not carried out during the process.

Councillor/Officer Consultation

Tender specifications were developed in consultation with staff involved in the daily operation of the subject assets and infrastructure. The Manager of Building Construction and Maintenance was also consulted as part of the Tender Evaluation Process.

Analysis of Financial and Budget Implications

Funding for the services contained in this tender is part of the General Maintenance Budget.

Economic, Social, Environmental and Heritage Issues

Local purchasing assists local businesses. There are no known issues to consider.

Policy Compliance

The tender process complies with the requirements of Work Procedure WP4.6 – Tender Procedure, and associated legislation. The application of the Local Buying Policy which applies a 5% preference for local suppliers, did not alter the results of this tender.

Legislative Compliance

Advertising and processing of tenders has been conducted in accordance with the Local Government (Functions and General) Regulation 1996, Part 4 – Tenders for Providing Goods or Services (S.3.57).

Delegation of Authority

The total cost of this project is unknown but (based on data from the past contract) it is expected to exceed \$100,000 during the term of the contract. The contract has been dealt with in accordance with the Local Government (Functions and General) Regulation 1996, Part 4 – Tenders for Providing Goods or Services (S.3.57) which requires consideration by the “local authority”.

Relevant Precedents

Council has dealt with all tenders previously called.

Options

Option 1

Per the officer's recommendation listed in this report.

Option 2

Council elects to reject all tenders.

Conclusion

The recommended tenders provide the City with competitive prices that are considered to be value for money. Both Bricknell Electrics and Jandco Electrics have previously held similar contracts and provided satisfactory service to the City of Bunbury. Barry Allen Electrical Services has also undertaken and successfully completed various works for the City.

Recommendation

Council to undertake the following with respect to Tender 2007/2008-04 for the supply of building and general electrical services for maintenance and minor works:

1. Accept the tender submitted by Bricknell Electrics for all electrical works associated with domestic-type installations and various other Council-owned buildings and assets within the City of Bunbury.

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2. Accept the tender submitted by Barry Allen Electrical Services for electrical works to all City of Bunbury street lighting that is not maintained by Western Power.
3. Accept the tender submitted by Jandco Electrics for all electrical works associated with industrial installations including 3-phase pump motors and switchgear.
4. Accept the tender submitted by Jandco Electrics for all electrical works to reticulation bore pumps and low voltage switch gear and control gear.
5. Record the successful tender price in the Council minutes.

Outcome of the Council Committee Meeting - 19 February 2008

Councillor Leigh disclosed a financial interest as his company has done some work for the tenderers listed on some occasions. He left the meeting at 9.07pm and was absent for the duration of discussion and the vote on this matter.

The recommendation was moved Cr Dillon, seconded Cr Jones. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Council to undertake the following with respect to Tender 2007/2008-04 for the supply of building and general electrical services for maintenance and minor works:

1. *Accept the tender submitted by Bricknell Electrics for all electrical works associated with domestic-type installations and various other Council-owned buildings and assets within the City of Bunbury.*
2. *Accept the tender submitted by Barry Allen Electrical Services for electrical works to all City of Bunbury street lighting that is not maintained by Western Power.*
3. *Accept the tender submitted by Jandco Electrics for all electrical works associated with industrial installations including 3-phase pump motors and switchgear.*
4. *Accept the tender submitted by Jandco Electrics for all electrical works to reticulation bore pumps and low voltage switch gear and control gear.*
5. *Record the successful tender price in the Council minutes.*

CARRIED

11 Votes "For" / Nil Votes "Against"

Cr Leigh returned to the meeting at 9.08pm.

11.7 BUNBURY AIRPORT NEW LEASE - SITE NO. 34, HELICOPTERS (AUSTRALIA) PTY LTD - PORTION LOT 455 SOUTH WESTERN HIGHWAY, BUNBURY

File Ref:	F00080
Applicant/Proponent:	Helicopter (Australia) Pty Ltd - Joe Driver, Perth-based Manager
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

An application has been received from Helicopters (Australia) Pty Ltd seeking Council's consideration to lease Bunbury Airport Site No. 34 - a copy of the company's website homepage is **attached** at Appendix 11. The term of the lease will commence on 1 April 2008 and expire 30 June 2011 being the common expiry date for all leased sites at the airport.

The applicant company has an ongoing contract to support the aerial burning and bushfire operations of the Department of Environment and Conservation ("DEC") up to the year 2012. It intends to use the lease site for storage of equipment in an ATCO pre-fabricated storage shed. A copy of the site plan is **attached** at Appendix 12.

Background

The Bunbury Airport is located on Reserve 27383 (Lot 455 South Western Highway). The land is held by the City of Bunbury under a Management Order being Crown Land Record 3040/63 (Crown Land Title Vol. 3007 Fol. 583) for the purpose of an "Aerodrome" with the power to lease for a term of up to twenty-one (21) years.

The term of the lease has been determined pursuant to the *Bunbury Airport Strategic Plan Directions 2000-2010* which requires all leases at the airport to have corresponding expiry dates, terms and conditions.

Proposed Lease Details (Proposed)

Commencement:	1 April 2008
Term:	3 years and 3 months
Expiry:	30 June 2011
Lease Area:	5m x 3m (15 sq.m)
Rental Calculation:	Annual lease rental to be calculated at \$4.10 per square metre (inclusive of GST) and indexed to any increases to the City's <i>Commercial and Industrial Municipal Rate</i> . The calculation is 5m x 3m x \$4.10 or \$61.50 per annum GST inclusive.
Administration Fee:	\$32.50 per annum GST inclusive
Rent Review:	Lease fees for the airport were adopted at the Council Meeting held on 14 August 2007 and are increased annually in line with the City's <i>Commercial and Industrial Municipal Rate</i> .
Permitted Use:	Storage of Equipment

Outgoings:	Lessee responsible for paying utility charges such as power and payment of municipal rates.
Insurance:	The Lessee is to maintain Public Risk Insurance and General Insurance on the building. Public Liability insurance cover is to be set at \$10(M).
Document Preparation:	The Lessee will be responsible for the full cost of documentation, registration and advertising.

Strategic and/or Regional Outcomes

Strategic Outcomes

Leasing proposals comply with the City of Bunbury Strategic Plan 2007-2012 through Strategic Direction 2.4 which states that the City will *"develop a property strategy that benefits the City's residents, businesses, community and sporting organisations."*

Regional Outcomes

The proposal will assist a State Government Department in its efforts to protect lives and property in the Greater Bunbury Region.

Community Consultation

The proposal to grant the new lease must be advertised pursuant to Section 3.58 of the Local Government Act 1995 and requires a public submission period of 14 days.

Councillor/Officer Consultation

Council officers have held discussions with the applicant company. Mutual agreement has been reached in relation to the terms and conditions of the lease and building licence required. Council's Airport Reporting Officer supports the granting of the lease to the applicant company.

Analysis of Financial and Budget Implications

Lease fees at the Bunbury Airport were adopted at the Council Meeting held on 14 August 2007 and are increased annually in line with *Council's Commercial and Industrial Municipal Rate* throughout the lease term.

The Lessee will (along with other Lessees at the airport) be required to pay its share of municipal rates for the site and will be responsible for payment of utility charges.

All expenditure associated with the new lease will be the responsibility of the Lessee including advertising and document preparation costs.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The lease proposal will (in part) assist a State Government Department in its efforts to protect lives and property in the Greater Bunbury Region through the applicant company's current contract with the DEC. The applicant company is privately owned and provides a range of services including helicopter charter, aerial surveying, mapping services, news gathering, pipeline inspections, etc.

Use of the airport provides economic benefits to suppliers and technical staff associated with maintenance of aircraft and hangars.

Social Issues

The applicant company has stated that it recognises that its ability to sustain growth in the Bunbury Region will depend on its unwavering commitment to the safety and health of its employees, contractors, passengers and protection of the environment.

Environmental Issues

The application does not conflict with the *Bunbury Airport Location Analysis Study - City of Bunbury* prepared by Connell Wagner Pty Ltd in April 2004; and is in keeping with the amenity of the area.

Heritage Issues

There are no known heritage issues relative to the proposal.

Council Policy Compliance

There is no Council policy concerning leases.

Legislative Compliance

The intention to lease will be advertised for public information with a submission period of 14 days pursuant to Sections 3.58(3) and (4) of the Local Government Act 1995.

Delegation of Authority

The Chief Executive Officer has the delegated authority to negotiate the terms and conditions of property leases provided the settled terms/conditions are then presented to the Council for endorsement before documentation is finalised.

It is proposed that subject to receipt of no objecting submissions from public advertising, the Chief Executive Officer is authorised to finalise and sign the necessary documents.

Relevant Precedents

Council currently leases 32 hangar sites at the Bunbury Airport and regularly considers requests for new and assigned leases due to the growing demand for hangar space at the facility. At its meeting held on 18 December 2007, the Council approved funding for an additional 15 hangar lease sites and 1 office lease site.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council may elect not to support the application to lease Site 34 at the Bunbury Airport received from Helicopter (Australia) Pty Ltd.

Conclusion

The recommendation was drafted in line with the following objectives:

1. The City will meet its responsibilities for management, care and control of Reserve 27686, Lot 455 South Western Highway, Bunbury for the benefit of an "airport".
2. The terms and conditions of the new lease have been mutually agreed to by the City's Executive and the applicant company - Helicopters (Australia) Pty Ltd.
3. The proposal underpins the role the Bunbury Airport plays in supporting emergency services.

Recommendation

Council agrees to grant Helicopters (Australia) Pty Ltd a lease over Bunbury Airport Site No. 34 being portion of Reserve 27686, Lot 455 South Western Highway, Bunbury; subject to the following:

1. The term of the lease to commence on 1 April 2008 and expire on 30 June 2011.
2. Other terms and conditions of the lease to be in accordance with the report to Council on this issue.
3. The City's intention to lease this land to be advertised for public information pursuant to Section 3.58(3) and (4) of the Local Government Act 1995. This is to be done through notices on Public Notice Boards at the City's Administration Centre and Libraries; and, a notice published in the City Update Column of the Bunbury Mail Newspaper.

4. Subject to receipt of no objecting submissions during the public advertising period, the Chief Executive Officer is authorised to finalise the Deed of Lease ready for signature by all parties.
5. The lease to contain an endorsement from the Minister for Lands.
6. Helicopters (Australia) Pty Ltd to be responsible for all costs connected with preparation and execution of the lease document.

Outcome of the Council Committee Meeting - 19 February 2008

A request was made for the names of the company's directors to be provided to members so that they can determine whether they need to disclose an interest at the Council Meeting.

The recommendation was moved Cr Dillon, seconded Cr Craddock. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Council agrees to grant Helicopters (Australia) Pty Ltd a lease over Bunbury Airport Site No. 34 being portion of Reserve 27686, Lot 455 South Western Highway, Bunbury; subject to the following:

1. *The term of the lease to commence on 1 April 2008 and expire on 30 June 2011.*
2. *Other terms and conditions of the lease to be in accordance with the report to Council on this issue.*
3. *The City's intention to lease this land to be advertised for public information pursuant to Section 3.58(3) and (4) of the Local Government Act 1995. This is to be done through notices on Public Notice Boards at the City's Administration Centre and Libraries; and, a notice published in the City Update Column of the Bunbury Mail Newspaper.*
4. *Subject to receipt of no objecting submissions during the public advertising period, the Chief Executive Officer is authorised to finalise the Deed of Lease ready for signature by all parties.*
5. *The lease to contain an endorsement from the Minister for Lands.*
6. *Helicopters (Australia) Pty Ltd to be responsible for all costs connected with preparation and execution of the lease document.*

CARRIED

12 Votes "For" / Nil Votes "Against"

11.8 REPORT ON STRATEGIC ACTIVITIES - MARCH TO DECEMBER 2007

File Ref:	A00836
Applicant/Proponent:	Internal Report
Author:	John Beaton, Manager Administration and Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Background

Council adopted the Corporate Strategic Plan 2007-2012 on 6 March 2007.

A report on strategic activities identified in the Strategic Plan for the period March to December 2007 has been circulated to meeting members under separate cover.

The report lists progress on individual goals and strategies linked to the City's Strategic Plan 2007-2012, the Principal Plan of Activities and the Annual Budget.

The report reflects the six headings in the Strategic Plan, as follows:

1. Improve relationship with state, federal and other local governments.
2. Strengthen the City of Bunbury's governance and leadership.
3. Deliver major capital projects on time and on budget.
4. Implement the City Vision project.
5. Promote ecological sustainable development of the City's built and natural environments.
6. Develop social capital.

Recommendation

The Report on Strategic Activities for the period 1 March to 31 December 2007, be received.

Outcome of the Council Committee Meeting - 19 February 2008

The Chief Executive Officer and Executive Manager Corporate Services responded to questions concerning the status of some of the strategic activities listed.

The recommendation was moved Cr Dillon, seconded Cr Craddock. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

The Report on Strategic Activities for the period 1 March to 31 December 2007, be received.

CARRIED

12 Votes "For" / Nil Votes "Against"

11.9 LOCAL GOVERNMENT STATUTORY COMPLIANCE RETURN COVERING PERIOD 1 JANUARY TO 31 DECEMBER 2007

File Ref:	A00106
Applicant/Proponent:	Internal Report
Author:	Jack Dyson, Senior Administration Officer
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

It is proposed that Council adopt the Local Government Statutory Compliance Return for the year 1 January to 31 December 2007 - a copy of the document has been circulated to members under separate cover.

Background

Each year the Department of Local Government and Regional Development requests councils throughout the State to conduct an annual assessment of compliance with key components of the Local Government Act 1995 (and associated regulations). The Statutory Compliance Return for 2007 needs to be completed and returned to the Department by 31 March 2008.

Compliance has been achieved on all key components of the return for the period under review.

Strategic and/or Regional Outcomes

The recommended action complies with the City of Bunbury Strategic Plan 2007-2012 and specifically strategic objective 2 which is to: *"Strengthen the City of Bunbury's Governance and Leadership"*, by ensuring compliance with the City's statutory obligations.

Community Consultation

There is no community consultation required.

Councillor/Officer Consultation

All Executive and Work Area Managers are provided with copies of relevant sections of the Statutory Compliance Return forms on a regular basis. The final return is compiled at the end of the review period using information contained and examined as a result of regular mini audits, which are conducted on various aspects of the Return.

These internal audits assist the various Work Areas to ensure their operations meet the statutory requirements of the Local Government Act 1995. They also provide management with information necessary to ensure continual compliance.

Analysis of Financial and Budget Implications

There are no budgetary implications associated with this return.

Economic, Social, Environmental and Heritage Issues

Completion of the Statutory Compliance Return has no direct effect on economic, social, environment or heritage issues.

Council Policy Compliance

The responses contained within this report do not contravene any existing Council Policy or Work Procedure.

Legislative Compliance

Completion of the Statutory Compliance Return is a requirement under the provisions of Section 7.13(i) of the Local Government Act 1995 and Clause 13 of the Local Government (Audit) Regulations 1996. The City of Bunbury has fulfilled its commitment to completing this return since 1997.

The last return (2006) was adopted by Council at its meeting held 6 March 2007.

Delegation of Authority

The various sections of the Statutory Compliance Return are compiled under delegated authority by the Senior Administration Officer.

Relevant Precedents

The City of Bunbury has fulfilled its commitment to completing a Statutory Compliance Return each year since the inception of the process in 1997. The last return (2006) was adopted by Council at its meeting held 6 March 2007.

Options

No alternative option is offered as completion of the Local Government Statutory Compliance Return is a statutory requirement.

Recommendation

Council adopts the Statutory Compliance Return for the City of Bunbury for the period 1 January 2007 to 31 December 2007 and authorises its endorsement by His Worship the Mayor and Chief Executive Officer.

Outcome of the Council Committee Meeting - 19 February 2008

The recommendation was moved Cr Dillon, seconded Cr Jones. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Council adopts the Statutory Compliance Return for the City of Bunbury for the period 1 January 2007 to 31 December 2007 and authorises its endorsement by His Worship the Mayor and Chief Executive Officer.

CARRIED

12 Votes "For" / Nil Votes "Against"

11.10 FINANCIAL STATEMENTS - JANUARY 2008

File Ref:	A02838
Applicant/Proponent:	Internal Report
Author:	David Ransom, City Accountant
Executive:	Ken Weary, Executive Manager Corporate Services

Summary/Background

Financial Statements for the period ending 31 January 2008 have been circulated to members under separate cover. The statements include the following details:

Income Statement
Balance Sheet
Statement of Changes in Equity
Statement of Financial Activity
Statement of General Purpose Income
Statement of Rating Information
Note 1 - Significant Accounting Policies
Note 2 - Description of Programmes
Note 3 - Net Current Assets
Note 4 - Receivables
Note 5 - Other Financial Assets
Note 6 - Payables
Note 7 - Provisions
Note 8 - Trust Funds
Note 9 - Capital Expenditure
Note 10 - Key Operating Expenditure and Income (budget exceeding \$20,000)
Note 11 - Loan Funds
Note 12 - Reserve Funds
Note 13 - Bunbury Timber Jetty
Note 14 - Investment Funds

Recommendation

The Financial Statements for the period ending 31 January 2008, be received.

Outcome of the Council Committee Meeting - 19 February 2008

The recommendation was moved Cr Dillon, seconded Cr Leigh. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

The Financial Statements for the period ending 31 January 2008, be received.

CARRIED

12 Votes "For" / Nil Votes "Against"

11.11 EXTRAORDINARY ELECTION - RESIGNATION OF COUNCILLOR DILLON

File Ref:	New File
Applicant/Proponent:	Internal Report
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

The Council is required to consider options for filling a forthcoming vacancy on the Council due to notice of resignation received from Councillor Dillon.

Background

Councillor Dillon has provided written notice of his intention to resign from the Council to take effect as of 7 May 2008.

The following options need to be considered by the Council:

- Hold a postal election (conducted by the Electoral Commission)
- Conduct an "in person" election (conducted by the City of Bunbury)
- Defer filling the vacancy until the next ordinary election (October 2009)

Once Cr Dillon vacates his seat on the Council it will be left with 92% of its operational capacity and should still be able to operate effectively as a governing body. Council's current rate of representation is one elected member per 1,783 electors (which would reduce to one elected member per 1,945 electors upon Cr Dillon's departure - well in line with the representation ratios of several other like-size local governments in Western Australia).

Should the Council decide that this is not satisfactory and an extraordinary election is to be held (whether postal or in-house), it is a legislative requirement that the election take place no sooner than one (1) month of the vacancy occurring and no later than four (4) months after the vacancy occurs. Hence, an election date can be set for a date between Saturday, 12 April 2008 and Saturday, 6 September 2008 (inclusive).

Details of each option are provided below for Council consideration:

1. Postal Election

The Council can seek to appoint the Electoral Commission to conduct a postal election. The indicative cost of this option is \$35,000 to \$40,000. This amount would need to be considered as part of the March 2008 Budget Review or, if the election date is set beyond June 2008, it can be considered as part of deliberations for the annual budget.

Voter turnouts for postal elections are considerably higher than for in-person elections. The turnout for the ordinary election in October 2007 (which was conducted by post by the Electoral Commission) was 28.15%

It is normally prudent to hold postal elections on a date that is suitable to the Electoral Commissioner.

2. *In-person Election*

The Council can authorise the Chief Executive Officer to conduct an in-person election utilising City of Bunbury resources. The indicative cost of this option is \$15,000 (based on the need for Council to recruit and pay polling officers, purchase equipment and publish the necessary advertising). Again, this amount would need to be considered as part of the March 2008 Budget Review.

The Electoral Commissioner must approve the proposed election date before an election can take place.

An in-person election was held after the resignation of Councillor Ghaseb in February 2006 with a low voter turnout of just 1.5%

3. *Defer Filling Vacancy Until Next Ordinary Election*

The Electoral Commissioner has advised that he will approve an application from Council to allow the vacant position to remain unfilled until the next ordinary election in October 2009 [*as permitted under Section 4.17(3) of the Local Government Act 1995*] as the basic requirement for at least 80% of the number of offices of "Member of Council" in the district to be filled, has been met i.e., with one less elected member the Council would have an operational capacity of 92%.

As previously stated, Council's current rate of representation is one elected member per 1,783 electors (which would reduce to one elected member per 1,945 electors upon Cr Dillon's departure - well in line with the representation ratios of several other like-size local governments in Western Australia).

Strategic and/or Regional Outcomes

It is considered that the Council would be under no disadvantage in meeting its obligations under the *City of Bunbury Strategic Plan 2007-2012* should it decide to operate with one less elected member until the next ordinary election in October 2009.

Community Consultation

There is no need for community consultation on this issue.

If the Council decides to hold an extraordinary election the normal statutory advertising process as stated in the Local Government Act 1995 (and regulations) will be followed.

Councillor/Officer Consultation

Elected members were advised (informally) of Councillor Dillon's intention to resign during discussion that followed the Council Meeting on 5 February 2008.

Analysis of Financial and Budget Implications

There are no costs to consider should the Council elect to leave the vacancy unfilled until October 2009.

As explained previously, the following costs are associated with holding an election to fill the vacancy. These costs are indicative only at this stage and will need to be referred to the March 2008 Budget Review for allocation of a funding source (or Annual Budget deliberations if the election is to be held after June 2008):

Postal Election: \$35,000 to \$40,000
In-Person Election: \$15,000

Economic, Social, Environmental and Heritage Issues

There are no specific economic, social, environmental or heritage issues to consider.

Council Policy Compliance

There is no Council policy on the filling of vacancies on the Council.

Legislative Compliance

Should the Council decide to seek the written agreement of the Electoral Commissioner to have the Electoral Commission conduct an extraordinary election (postal vote) it must be held within four (4) months of the vacancy occurring i.e., prior to 6 September 2008. An absolute majority vote will be required.

An in-house (and in-person) election would also need to be held within four (4) months of the vacancy occurring.

Section 4.17(3) of the Local Government Act 1995 permits the Council to seek the approval of the Electoral Commissioner to leave the seat unfilled until the next Ordinary Election Day. An absolute majority vote will be required.

Delegation of Authority

Not applicable.

Relevant Precedents

At its meeting on 22 November 2005, the Council considered options of filling a vacancy created due to the resignation of Councillor Ghasseb. At that meeting, the Council elected not to leave the vacancy unfilled and to save costs, conduct the election in-house (and in-person).

Options

Option 1

Pursuant to Section 4.20(4) of the Local Government Act 1995, the Council undertakes to fill the vacancy created by the resignation of Councillor Dillon through conduct of a Postal Election on the following basis:

1. The written agreement of the Electoral Commissioner to conduct an extraordinary "postal" election, to first be sought.
2. Subject to receipt of the agreement in 1. above, the Council declares the Electoral Commissioner responsible for conduct of the extraordinary election, such election to be held on a date as decided by the Electoral Commissioner.

(Note: An Absolute Majority Vote will be required to appoint the Electoral Commissioner as Returning Officer)

Option 2

Pursuant to Section 4.20(1) of the Local Government Act 1995, the Council authorises the Chief Executive Officer to seek the approval of the Electoral Commissioner to fill the vacancy created by the resignation of Councillor Dillon through conduct of an in-house (in-person) extraordinary election.

Option 3

Pursuant to Section 4.17(3) of the Local Government Act 1995, the Council to request the Electoral Commissioner to permit the vacancy created by resignation of Councillor Dillon, to remain unfilled until the next ordinary election date in late 2009.

(Note: An Absolute Majority Vote will be required)

Recommendation

For committee consideration.

Outcome of the Council Committee Meeting - 19 February 2008

Option 1 (as printed in the report) was moved Cr Steck, seconded Cr Worthington.

During discussion, the cost of holding an in-person election was queried. The Chief Executive Officer advised that he will provide members with a breakdown of the cost in readiness for discussion at the subsequent Council Meeting.

Cr Craddock suggested that selection of an option be deferred until the Council Meeting. The mover and seconder of the motion agreed to change their motion accordingly.

The Presiding Member put the motion (now amended) to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

Selection of an option for filling the vacancy created by the resignation of Councillor Dillon, to be deferred until detailed costings can be provided to the members of the Council.

CARRIED

12 Votes "For" / Nil Votes "Against"

12. MOTIONS ON NOTICE

12.1 MOTION ON NOTICE - INVALID PARKING INFRINGEMENTS

File Ref:	A00474
Applicant/Proponent:	Councillor Steck
Author:	Councillor Steck
Executive:	<i>If adopted by Council refer to:</i> Geoff Klem, Executive Manager City Development

Cr Steck submitted the following motion for consideration at the Council Committee Meeting on 19 February 2008:

"Where a person or entity can prove by way of writing, that a parking ticket is valid and an infringement notice has been given, the Council to adopt a policy that the infringement becomes void and all charges cancelled."

Comments - Cr Steck

Cr Steck indicates that she put forward this motion in response to a letter received from a constituent concerning issue of a parking infringement when a ticket had been purchased within the time specified.

Outcome of the Council Committee Meeting - 19 February 2008

The motion was moved Cr Steck, seconded Cr Leigh (pro forma).

During discussion:

- Members were referred to the memorandum dated 18 February 2008 which was tabled at the meeting during consideration of Cr Steck's Question on Notice concerning the same subject (this had occurred earlier during the evening).
- Cr Steck agreed to amend her motion by deleting the words *"by way of writing"*.

The Presiding Member put the motion to the vote but it was defeated 1 vote "for" to 11 votes "against".

12.2 MOTION ON NOTICE - OUTER HARBOUR PROJECT (ALSO KNOWN AS THE 'BUNBURY WATERFRONT PROJECT')

File Ref:	A03183
Applicant/Proponent:	Councillor Steck
Author:	Councillor Steck
Executive:	<i>If adopted by Council refer to:</i> Geoff Klem, Executive Manager City Development

Cr Steck submitted the following motion for consideration at the Council Committee Meeting on 19 February 2008:

"Council to call a Special Meeting to address emerging issues associated with the Bunbury Outer Harbour Project - councillors to submit their agenda items to the Chief Executive Officer prior to 26 February 2008."

Comments - Cr Steck

Cr Steck has provided the following statement in support of her motion: *"The special meeting will provide councillors with an opportunity to share their individual concerns with the project and to facilitate a strategic direction of council and/or to further research associated matters that councillors may wish to discuss pertaining to the outer harbour project."*

Executive Comments

The members of the Council received a briefing from LandCorp (and its consultants) on 10 February 2008. It was intended that the concept plan and associated planning issues of the Bunbury Waterfront Project be reviewed by the Council's City Vision Committee before a report is provided to Council for further discussion.

Council may choose not to refer detailed discussion of the Bunbury Waterfront proposal to the City Vision Committee in favour of a Special Council Meeting to enable all councillors to have input as proposed by Councillor Steck. An alternative would be to convene another special briefing session without LandCorp representatives in attendance, which would also allow councillors and planning staff to seek further information and ask questions in a less formal framework. Once those issues have been clarified the matter would then be referred to a Council Meeting for determination.

Outcome of the Council Committee Meeting - 19 February 2008

The motion was moved Cr Steck, seconded Cr Worthington (pro forma).

19 February 2008
Minutes - Council Committee Meeting

During discussion, it was agreed that many Council members still require more information before they would feel fully informed and able to debate this complex matter in public. A Briefing Session (rather than a formal special council meeting) was suggested. The matter will be debated publicly in due course.

It was decided that the Briefing Session could be held immediately following the Council Meeting on 26 February 2008.

At this stage the Presiding Member put the motion that had been moved Cr Steck, seconded Cr Worthington (pro forma) to the vote and it was defeated 2 votes "for" to 10 votes "against".

An alternative motion was moved by Cr Craddock, seconded Cr Dillon in light of discussion that had taken place on this subject. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

A Special Briefing Session to discuss the Bunbury Waterfront Project (without LandCorp representatives in attendance) be held following the Council Meeting on 26 February 2008.

CARRIED

12 Votes "For" / Nil Votes "Against"

13. **"URGENT" BUSINESS WITH THE APPROVAL OF THE MAJORITY OF MEMBERS PRESENT AS PERMITTED UNDER STANDING ORDER 5.1.13**

14. **ITEMS TO BE NOTED OR ENDORSED**

14.1 **ITEMS TO BE NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING**

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various

Committee Members referred to the report circulated under separate cover.

Outcome of the Council Committee Meeting - 19 February 2008

Cr Dillon moved, Cr Leigh seconded a motion that the items contained in the report under separate cover, be noted. The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

The following items listed in the report circulated under separate cover, are noted for information only:

- 1. Title: Accounts for Payment - January 2008
Author: David Ransom, City Accountant
File: A00083*

CARRIED

12 Votes "For" / Nil Votes "Against"

14.2 **ITEMS TO BE ENDORSED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING**

There were no items recommended for endorsement.

15. CONFIDENTIAL BUSINESS AS STIPULATED UNDER SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995

Nil.

16. CLOSE OF MEETING

The Presiding Member declared the meeting closed at 10.30pm.

CONFIRMED this day 11 March 2008, to be a true and correct record of proceedings of the Council (Standing) Committee Meeting held 19 February 2008.

MAYOR D SMITH
PRESIDING MEMBER