



26 February 2008

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### **GLOSSARY OF ABBREVIATED TERMS**

<b>Term</b>	<b>Explanation</b>
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
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund

<b>Term</b>	<b>Explanation</b>
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
GFA	Gross Floor Area
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.
NLA	Nett Lettable Area
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan

<b>Term</b>	<b>Explanation</b>
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 MEETING MINUTES

Minutes of the Ordinary Meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 26 February 2008.

### MINUTES 26 February 2008

**NOTE:** These minutes are subject to confirmation at the Council Meeting on 18 March 2008

#### 1. DECLARATION OF OPENING BY THE MAYOR

His Worship the Mayor, Mr David Smith, declared the meeting open at 6.03pm.

#### 2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

*PRESENT*

<b>Council Committee Members</b>	
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 W Major
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck - arrived 7.38pm (Item 11.9)
Councillor A Leigh	
<b>Executive Management Team (Non-Voting)</b>	
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
<b>Council Officers (Non-Voting):</b>	
Manager Development Services:	Mr G Fitzgerald
Senior Planner (Strategic & Environment):	Mr T Farnworth
Project Manager - City Services:	Mr S Parkinson
Administration Officer Corporate Services:	Ms D Ryan

*PRESENT (continued)*

<b>Others (Non-Voting):</b>	
Members of the Public:	10 (approx.)
Members of the Press:	1

*APOLOGIES:*

Nil.

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

Not applicable.

**4. PUBLIC QUESTION TIME - AS SPECIFIED UNDER SECTION 5.24 OF THE LOCAL GOVERNMENT ACT 1995**

A summary of questions/responses follows:

**Ms Sonia Burns, Stirling Street Resident**

*Questions: Ms Burns asked the following questions in relation to the item titled "Draft City of Bunbury Local Planning Strategy for Heritage and Character" and especially, proposed modifications to the Stirling Street Precinct Area. Ms Burns gave a written copy of her questions to each councillor:*

- 1. Please explain the purpose of public submissions if they are to be ignored and without individual feedback? The owners of nos. 93 to 117 Stirling Street have asked for their properties to be excluded from the modified precinct area (refer to the Schedule of Submissions). Most of the homes in this group have no significant historical value as they were built after 1900. Further, the differing building styles means that the area does not represent any particular era.*
- 2. Who determined the modified precinct area and why is there a discrepancy in the interpretation of the guidelines? The properties from 93 to 117 Stirling Street remain in the modified heritage precinct area while properties that appear to be of higher historical value have been removed.*
- 3. If this policy is adopted by Council tonight, what further action can property owners and residents take?*

Response 1: The Mayor advised that all public submissions are considered first by members of the City's staff (who make comment on them). In this case, the Schedule of Submissions was made available to councillors on the Thursday prior to the Council Committee Meeting on 19 February 2008 and councillors have had since then to contact individual submitters for more information.

The existing meeting schedule whereby applications are considered by the Council "as a committee" one week prior to a Council Meeting, means that councillors can hear from public speakers at the committee meeting and are then at liberty following the meeting to seek further information from the public or seek professional advice (either from Council Officers or other authorities or institutions) in order to be fully informed before making a final decision at the Council Meeting.

It was pointed out to Ms Burns that although some of the submissions received lodge objections to what is proposed, it does not necessarily follow that individual councillors must agree with this point of view. Councillors take into account the needs of the community as a whole and consider proposals from a wider perspective. Whilst respecting comments received from residents affected by the proposed policies, councillors will make their decision tonight based on all the information they have received together with any further legal or professional advice they may have obtained on the subject matter.

Response 2: The Executive Manager of City Development advised that the assessment was done by a qualified Heritage Architect in conjunction with the City's Strategic Planner (who is also an Historian) and the resulting report has now been reviewed by the members of the Council's Heritage Advisory Committee.

The policy for the Stirling Street Precinct has been constructed so as to protect the amenity and character of the "area" and not just to protect individual historic homes. The key issue is that development or modification of any property in a designated area must not detract from the overall amenity and streetscape of the surrounding streets many of which contain historic buildings.

Public consultation has been extensive and residents affected by the proposal were invited to a special forum to debate the issue. He considers the policies proposed to be fair and reasonable given that for the majority of properties in the proposed precinct, they will not be very restrictive.

Response 3: The same as for response 1. above. He added that whenever an application is in the process of being considered by the Council (or a committee of the Council) members of the public are welcome to lobby individual councillors - contact details are available for public information.



**5. QUESTIONS ON NOTICE FROM MEMBERS OF COUNCIL (WITHOUT DISCUSSION)**

Nil.

**6. CONFIRMATION OF PREVIOUS MINUTES**

Cr Leigh moved, Cr Dillon seconded the following motion which was adopted to become a decision of the Council:

**Council Decision 17/08**

*The minutes of the Council Meeting held 5 February 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 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.

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 previous occasions.

**8. ANNOUNCEMENTS BY THE MAYOR (WITHOUT DISCUSSION)**

The Mayor announced that the National Executive of the Seachange Council paid for him to visit Canberra on 20 February 2008, as one of its Western Australian representatives. During the trip, he had the opportunity to meet with the Hon. Gary Gray, MP (the Member for Brand in Western Australia and also the Parliamentary Secretary for Regional Development) and a Senior Advisor to the Deputy Prime Minister. On 22 February 2008, the whole of the Seachange Council's National Executive met with the Federal Treasurer - the Hon. Wayne Swan, MP. The Mayor will provide councillors with more detailed information at a later date.

**9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS**

**9.1 AUSTRALIAN CENTRE FOR DIGITAL INNOVATION ("ACDI")**

<b>File Ref:</b>	A02351
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Stewart Parkinson, Project Manager
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer

**Summary**

In accordance with the *Memorandum of Understanding* between Council and the Australian Centre for Digital Innovation ("ACDI"), the City has sought funding to develop suitable infrastructure in the new library building that will accommodate the ACDI.

After exhausting all known possible funding sources there remains a capital shortfall of \$289,500. Council is requested to commit to funding the shortfall from its own resources so that the initiative can immediately proceed with costs to be met in the 2008/09 year.

**Background**

Council resolved to enter into the field of information and communications technology ("ICT") in September 2005 through its decision to incorporate a "Smart building" as part of the new library development. As a direct consequence, two ICT private companies namely, ISA and VUE, expressed interest in the proposed facility and the joint venture entity known as "ACDI" was proposed to establish a centre for digital innovation in Bunbury.

Council has developed a relationship with ACDI since at least June 2007 and this culminated in the *Memorandum of Understanding* that was endorsed by Council in November 2007 (Decision No. 236/07). A local working group was established in November 2007 to progress the initiative and this group includes the South West Development Commission, Edith Cowan University, Chamber of Commerce, Bunbury City Council and representatives from ISA and VUE. The benefits to Bunbury in pursuing this initiative are described in detail the November 2007 report to Council but briefly, these are:

- Local economic development – employment opportunities
- Improved access to high performance computing services
- Improved digital communications
- Introduction of a new industry to Bunbury – preparation of digital content for movies

A draft lease and agreement to lease have been prepared.

ACDI nominated a deadline of mid-February 2008 as the point at which all approvals and funding arrangements were to be finalised thereby allowing both parties to decide to proceed or otherwise with this initiative.

SWDC has actively sought funding for the initiative and in February 2008, offered Council a total of \$520,000 towards the infrastructure development costs.

### **Strategic and/or Regional Outcomes**

This proposal can be directly linked to the *City of Bunbury Strategic Plan 2007-2012* Strategic Objective 3.2, "Have well planned, developed and maintained City Infrastructure to identify and prioritise infrastructure needs" and 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".

### **Community Consultation**

The Mayor, Chief Executive Officer and other Council officers have been in regular contact with the proponents. The local working group includes representatives from the South West Development Commission, Edith Cowan University and Chamber of Commerce.

### **Councillor/Officer Consultation**

The initiative was considered by Council at its November 2007 briefing and the 27 November 2007 Council Meeting.

### **Analysis of Financial and Budget Implications**

In November 2007, the ACDI Consortium proposed the following split of financial responsibilities to secure the project (per the *Memorandum of Understanding*):

#### City of Bunbury Responsibility

Building	\$2.50 million
Data Centre additional servicing	\$0.66 million
Special Effects lab 50% share	\$0.20 million
3D visualisation lab 50% share	\$0.20 million
Toilets & a/c for ground floor	<u>\$0.20 million</u>

Total \*\$3.76 million

(\*Of this \$2.5 million has already been expended. The balance outstanding is \$1.26 million.)

#### ACDI Responsibility

High Performance computing facility	\$1.00 million
Virtual Super Studio software	\$1.50 million
Special Effects lab 50% share	\$0.20 million
3D visualisation lab 50% share	<u>\$0.20 million</u>

Total \$2.90 million

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**Minutes - Council Meeting**

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With regard to the City's component, the requirements evolved as further technical information became available such that the unfunded items of the data centre initiative infrastructure and possible funding sources as at February 2008, were as follows:

<b>Item</b>	<b>Item</b>	<b>Shortfall</b>	<b>Possible Source of Funds</b>
1	<u>Upgrading of the Data Centre - details of upgrade costs</u>  Transformer                    \$15,000 Generator                        \$50,000 Power supply                    \$40,000 Cabling/switchboard and air conditioning        \$190,000 UPS                                 \$55,000 Fire system                        \$0 EM stop buttons                \$2,000 Lighting protection            \$15,000 Security control                 \$6,000 Mechanical plant building and condenser supports    \$50,000 Data room extension          \$24,000 Professional fees                \$60,000 Rack system                        \$0	\$507,000	From SWDC - \$507,000
2	<u>Servicing of the ground floor</u>  Toilets                            \$ 55,000 Tea room                         \$ 10,000 Air conditioning                \$100,000 Floors, walls and ceiling finish                \$49,100 Electrical services              \$47,400 Fees                                 \$ 41,000	\$302,500	From SWDC - \$13,000  From Council - \$289,500
3	<u>Contribution to the 2 special effects labs</u>	\$400,000	From possible future government grants - \$400,000
Totals:		\$1,209,500	\$1,209,500

If this funding plan proceeds, Council's contribution to the initiative will be as follows:

<b>Item</b>	<b>Infrastructure Item</b>	<b>Cost</b>	<b>Source of Funds</b>	
			<b>Council</b>	<b>Others</b>
1	Building	\$2,500,000	\$2,050,000	\$450,000
2	Data Centre - additional servicing over the building contract	\$507,000		\$507,000
3	Special Effects Lab - 50% share	\$200,000		\$200,000
4	3D Visualisation Lab - 50% share	\$200,000		\$200,000
5	Servicing of ground floor	\$302,500	\$289,500	\$13,000
Totals :		<b>\$3,709,500</b>	<b>\$2,339,500</b>	<b>\$1,370,000</b>

Comments

1. The funding arrangements above are considered to be the best Council can offer to the proponents under the circumstances.
2. The proponents are yet to indicate if this offer is sufficient for them to proceed, particularly as the 2 laboratories will not receive immediate funding. Further negotiations are also anticipated on the lease agreement.
3. Council's exposure to risk under this arrangement is limited in that Council will be funding infrastructure for a data centre and office space. This expenditure will be required to bring the facility up to a lettable standard irrespective of who is the tenant.

**Economic, Social, Environmental and Heritage Issues**

Leasing out floor space at the new Library will provide a return on investment to Council (and the community).

Establishment of the ACDI will provide employment for local residents in information technology and film making. Part time employees may also be required for film production work as a flow-on effect of the Centre's operations.

The ACDI will provide local groups and businesses with access to state of the art technologies (includes super computing or HPC) for simulation and modelling in areas including emergency services and community use of internet video-over-broadband communications and virtual environments.

**Council Policy Compliance**

There is no Council policy in relation to this proposal.

**Legislative Compliance**

As a budget variation is recommended, an Absolute Majority vote will be required at the Council Meeting.

**Delegation of Authority**

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

**Relevant Precedents**

Not applicable.

## **Options**

### Option 1

Per the recommendation listed in the report.

### Option 2

Council does not commit to funding the identified data centre infrastructure funding shortfall of \$289,500 for the Australian Centre for Digital Innovation.

## **Conclusion**

Council is currently in a position where it has already funded 90% of the cost of the data centre and ground floor office facilities at the new library. By expending a further \$289,500 it potentially secures not only a tenant for many years but also brings to Bunbury a new industry with considerable potential.

The go-ahead for the initiative is still subject to a decision by the proponents. However, by funding this shortfall the Council has done its best to support an innovative and opportune project which has the potential to provide significant benefits to Bunbury.

## **Recommendation**

1. Council commits to funding the identified Data Centre infrastructure funding shortfall of \$289,500 (for the Australian Centre for Digital Innovation) and authorises associated works to proceed subject to the ACDI committing to the initiative by signing the "Agreement to Lease".
2. The amount of \$289,500 is to be committed to Council's 2008/09 budget.
3. The Chief Executive Officer is authorised to negotiate with the proponents with regard to the ACDI initiative's initial lease agreement.
4. Council accepts (and extends its appreciation to the Minister for the South West and the South West Development Commission for) funding of \$520,000 toward establishment of a Data Centre facility in Bunbury.

**AT THE COUNCIL MEETING**

The recommendation was moved as a motion by Cr Dillon, seconded Cr Punch.

During discussion:

- The Mayor and the Chief Executive Officer responded to questions from Council members concerning the cost for the two additional laboratories, the extent of Council's commitment to fitting-out of the ground floor and government funding.
- Some members requested that they be given the opportunity to read through the draft lease agreement before it is signed by all parties.

An amendment was moved Cr Worthington, seconded Cr Rooney to add the following words to the end of point 3. of the motion: *"... the document to be referred back to Council for approval before execution."*

The Mayor put the amendment to the vote and it was adopted 9 votes "for" to 3 votes "against".

The Mayor then attempted to put the amended motion to the vote but the mover requested that point 3. (now amended) be put to the vote separately so that he could vote against it.

The Mayor decided to put each point of the motion to the vote separately. The results of the votes were as follows:

Point 1: 12 votes "for / nil votes "against" - Absolute Majority vote attained

Point 2: 12 votes "for / nil votes "against" - Absolute Majority vote attained

Point 3: 8 votes "for" / 4 votes "against" - Absolute Majority vote attained

The votes were recorded as follows:

For: Crs Craddock, Major, Rooney, Leigh, Worthington, Kelly, Whittle and Slater

Against: Mayor D Smith; Crs Jones, Dillon and Punch

Point 4: 12 votes "for / nil votes "against" - Absolute Majority vote attained

For ease of reference the decision (in full) is printed below:

**Council Decision 18/08**

1. *Council commits to funding the identified Data Centre infrastructure funding shortfall of \$289,500 (for the Australian Centre for Digital Innovation) and authorises associated works to proceed subject to the ACDI committing to the initiative by signing the "Agreement to Lease".*
2. *The amount of \$289,500 is to be committed to Council's 2008/09 budget.*
3. *The Chief Executive Officer is authorised to negotiate with the proponents with regard to the ACDI initiative's initial lease agreement - the document to be referred back to Council for approval before execution.*
4. *Council accepts (and extends its appreciation to the Minister for the South West and the South West Development Commission for) funding of \$520,000 toward establishment of a Data Centre facility in Bunbury.*

**CARRIED**

**Absolute Majority Vote Attained**



**9.2 APPOINT WORKING GROUP TO REVIEW COUNCIL MEETING ARRANGEMENTS**

<b>File Ref:</b>	A00106
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Greg Trevaskis, Chief Executive Officer
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer

**Summary**

It is proposed to establish a Working Group to examine and report to Council on possible changes to Council's current meeting format.

**Background**

A Councillor/Executive Strategic Workshop was held on Sunday, 10 February 2008 and possible alternatives to current meeting times, structure, briefing sessions and frequency of ordinary Council meetings were discussed in some detail. It was generally agreed that a Working Group be formed to develop further guidelines on the following:

- a) "Committee/Agenda Forums" as defined by the Department of Local Government and Regional Development but adapted to suit the City of Bunbury.
- b) Two-week cycle for ordinary Council Meetings and Briefing Sessions i.e., removal of Standing Committee Meetings.

Associated arrangements will be assessed by the Working Group for potential benefits and any disadvantages should Council move to introduce either of the above formats.

**Strategic and/or Regional Outcomes**

A review of Council Meeting arrangements is consistent with Strategic Objective No. 2 of the *City of Bunbury Strategic Plan 2007-2012* to "strengthen the governance and leadership in the way Council applies its decision making processes."

**Community Consultation**

Not applicable.

**Councillor/Officer Consultation**

The strategic workshop convened between elected members and the Executive discussed issues relating to different meeting arrangements. Confidential notes from the workshop have been separately provided to all councillors and members of the City's Executive staff.

### **Analysis of Financial and Budget Implications**

No additional expenses are expected as a result of proposed changes to council meetings.

### **Economic, Social, Environmental and Heritage Issues**

Not applicable.

### **Council Policy Compliance**

No Council policy is applicable.

### **Legislative Compliance**

Should changes be made to current council meeting arrangements, consideration will be given to amending the City of Bunbury Local Law "Standing Orders".

### **Delegation of Authority**

Not applicable.

### **Relevant Precedents**

Local Governments regularly review their respective meeting arrangements to satisfy changing circumstances for elected members, the organisation and the community.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

The status quo be maintained.

### **Recommendation**

Council to establish a Meeting Review Working Group to examine (and report to Council on) possible changes to Council's current meeting format, on the following basis:

1. Terms of reference for the Meeting Review Working Group are:

*"To develop and report on possible guidelines and an assessment of benefits/issues should either of the following formats be introduced:*

- a) *Committee/Agenda Forums as defined by the Department of Local Government and Regional Development but adapted to suit the City of Bunbury.*
- b) *Two-week cycle for ordinary Council Meetings and Briefing Sessions i.e., removal of Standing Committee Meetings."*

2. Membership of the Working Group to be:

His Worship the Mayor, Mr David Smith  
Chief Executive Officer, Mr Greg Trevaskis  
Cr \_\_\_\_\_ (to be determined)  
Cr \_\_\_\_\_ (to be determined)

3. The Working Group to report to Council on its progress at the Council Briefing Session scheduled for 25 March 2008.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Dillon, seconded Cr Jones.

During discussion:

- Crs Worthington and Craddock accepted nominations to be appointed to the Working Group.
- Concern was raised that the terms of reference stated in point 1. of the motion do not make it clear that the Council can stay with its existing meeting format or can adopt an alternative to the 2 options provided.

Cr Worthington moved, Cr Rooney seconded an amendment to add point 4. which reads:  
*"Item 1 above does not prevent the Working Group from recommending that the City stay with the existing meeting format or adopt an alternative format."*

The Mayor put the amendment to the vote and it was adopted 11 votes "for" to 1 vote "against".

The Mayor put the motion (as amended) to the vote and it was adopted to become a Council Decision.

**Council Decision 19/08**

*Council to establish a Meeting Review Working Group to examine (and report to Council on) possible changes to Council's current meeting format, on the following basis:*

1. *Terms of reference for the Meeting Review Working Group are:*

*"To develop and report on possible guidelines and an assessment of benefits/issues should either of the following formats be introduced:*

a) *Committee/Agenda Forums as defined by the Department of Local Government and Regional Development but adapted to suit the City of Bunbury.*

b) *Two-week cycle for ordinary Council Meetings and Briefing Sessions i.e., removal of Standing Committee Meetings."*

2. *Membership of the Working Group to be:*

*His Worship the Mayor, Mr David Smith  
Deputy Mayor, Councillor Stephen Craddock  
Councillor Lorna Worthington  
Chief Executive Officer, Mr Greg Trevaskis*

3. *The Working Group to report to Council on its progress at the Council Briefing Session scheduled for 25 March 2008.*

4. *Item 1 above does not prevent the Working Group from recommending that the City stay with the existing meeting format or adopt an alternative format.*

**CARRIED**

**11 Votes "For" / 1 Vote "Against"**

**Absolute Majority Vote Attained**

**10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS**

Nil.

**11. RECEPTION OF REPORTS AND RECOMMENDATIONS FROM THE COUNCIL (STANDING) COMMITTEE MEETING HELD 11 DECEMBER 2007**

At this point in proceedings, the Council adopted *en bloc* committee recommendations listed under items 11.2, 11.7, 11.8, 11.9, 11.10, 11.12 and 11.13 of the meeting agenda (as permitted under the City's Standing Orders).

Items 11.1, 11.3, 11.4, 11.5, 11.6 and 11.11 of the meeting agenda were then dealt with (and voted on) individually.

**Please note: Items listed in Section 11 of the minutes differ from the order that they appeared in the meeting agenda. The items have been re-numbered in order of discussion so that those items voted *en bloc* by members of the Council, are listed first.**

**11.1 PROPOSED CHANGE OF USE FROM 'RESIDENTIAL' TO 'OFFICE' - LOT 20**  
**(NO. 1) DP:2854 TEEDE STREET, BUNBURY** *(WAS LISTED AS ITEM 11.2 ON THE MEETING AGENDA)*

<b>File Ref:</b>	P09597
<b>Applicant/Proponent:</b>	Mr Anthony Greig
<b>Author:</b>	Lindsay Bergsma, Planning Officer
<b>Executive:</b>	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 200m<sup>2</sup> 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 200m<sup>2</sup> 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 106m<sup>2</sup>. 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 210m<sup>2</sup> (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 200m<sup>2</sup>.

**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 (12 votes "for" to nil votes "against") to become the committee's recommendation.

### **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.

### **AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 20/08**

*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"**

**11.2 BUNBURY AIRPORT NEW LEASE - SITE NO. 34, HELICOPTERS (AUSTRALIA) PTY LTD - PORTION LOT 455 SOUTH WESTERN HIGHWAY, BUNBURY** *(WAS LISTED AS ITEM 11.7 ON THE MEETING AGENDA)*

<b>File Ref:</b>	F00080
<b>Applicant/Proponent:</b>	Helicopter (Australia) Pty Ltd - Joe Driver, Perth-based Manager
<b>Author:</b>	John Beaton, Manager Administration & Property Services
<b>Executive:</b>	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 12 votes "for" to nil votes "against" 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.



**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 21/08**

*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"**

**11.3 REPORT ON STRATEGIC ACTIVITIES - MARCH TO DECEMBER 2007** *(WAS LISTED AS ITEM 11.8 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00836
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	John Beaton, Manager Administration and Property Services
<b>Executive:</b>	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 (12 votes "for" to nil votes "against") 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.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 22/08**

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

**CARRIED**

**12 Votes "For" / nil Votes "Against"**

**11.4 LOCAL GOVERNMENT STATUTORY COMPLIANCE RETURN COVERING PERIOD 1 JANUARY TO 31 DECEMBER 2007** (WAS LISTED AS ITEM 11.9 ON THE MEETING AGENDA)

<b>File Ref:</b>	A00106
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	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 (12 votes "for" to nil votes "against") 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.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 23/08**

*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"**

**11.5 FINANCIAL STATEMENTS - JANUARY 2008** *(WAS LISTED AS ITEM 11.10 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A02838
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, City Accountant
<b>Executive:</b>	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 (12 votes "for" to nil votes "against") to become the Committee's recommendation on this issue.

**Committee Recommendation**

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

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 24/08**

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

**CARRIED**

**12 Votes "For" / nil Votes "Against"**



**11.6 OUTER HARBOUR PROJECT (ALSO KNOWN AS THE 'BUNBURY WATERFRONT PROJECT')** (WAS LISTED AS ITEM 11.12 ON THE MEETING AGENDA)

<b>File Ref:</b>	A03183
<b>Applicant/Proponent:</b>	Councillor Steck
<b>Author:</b>	Councillor Steck
<b>Executive:</b>	<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).

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 unanimously 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.

#### **AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

#### **Council Decision 25/08**

*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"**

**11.7 ITEM NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING ON 19 FEBRUARY 2008** *(WAS LISTED AS ITEM 11.13 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00083
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, City Accountant
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

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 unanimously 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"

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Dillon.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 26/08**

*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"**

**11.8 PROPOSED LOCAL PLANNING POLICY "OFFICE DEVELOPMENT WITHIN THE MIXED BUSINESS ZONE" (WAS LISTED AS ITEM 11.1 ON THE MEETING AGENDA)**

<b>File Ref:</b>	A00398
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Kelvin Storey, Planning Officer
<b>Executive:</b>	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)
<b>Office</b>	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 200m<sup>2</sup> 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 200m<sup>2</sup>NLA), 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 210m<sup>2</sup> GFA (gross floor area) and 200m<sup>2</sup> NLA office floor space. The 210m<sup>2</sup> GFA derives from up to 200m<sup>2</sup> NLA being allowed as office floor space (as required under the current Scheme), and 10m<sup>2</sup> 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 200m<sup>2</sup> 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 200m<sup>2</sup> 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 and it was carried 12 votes "for" to nil votes "against".

**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.

**AT THE COUNCIL MEETING**

The Mayor permitted Mr Anthony Greig to address the members of the Council on this matter. Mr Greig voiced concern that his submission does not appear either in the meeting agenda or the appendices.

The Mayor advised Mr Greig that his submission was received too late to be included in the agenda papers. However, a copy of the submission forms part of a memorandum that was circulated to councillors prior to the meeting.

The Committee's recommendation was moved Cr Dillon, seconded Cr Craddock.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 27/08**

*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**

**11 Votes "For" / 1 Vote "Against"**

Cr Slater requested that his vote "against" the Council's decision, be recorded.

**11.9 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** *(WAS LISTED AS ITEM 11.3 ON THE MEETING AGENDA)*

<b>File Ref:</b>	P01795
<b>Applicant/Proponent:</b>	Burswood Investments Pty Ltd
<b>Author:</b>	Ann Jank, Planning Officer
<b>Executive:</b>	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.
- 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.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Dillon, seconded Cr Major.

Cr Steck arrived at the meeting at this point in proceedings - 7.38pm.

The Mayor noted that councillors should have received information concerning overshadowing during the week.

An amendment was moved Cr Rooney, seconded Cr Leigh to add the words "*prior to commencement of any works*" to the beginning of point 2. of the motion.

The Mayor put the amendment to the vote and it was carried unanimously.

The amended motion was then put to the vote and adopted to become a Council Decision - a request was made to record the vote as follows:

For: Mayor D Smith; Crs Craddock, Jones, Dillon, Major, Rooney, Leigh, Punch, Whittle and Slater

Against: Crs Worthington, Kelly and Steck

**Council Decision 28/08**

*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. Prior to commencement of any works, the applicant to undertake a Dilapidation Survey of nearby buildings and residential properties as determined at the discretion of Executive staff.*

**CARRIED**

**10 Votes "For" / 3 Votes "Against"**

**11.10 DRAFT CITY OF BUNBURY LOCAL PLANNING STRATEGY FOR HERITAGE AND CHARACTER** *(WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00538
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Leigh Barrett, Planning Officer
<b>Executive:</b>	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 criteria were established in consultation with a fully qualified Heritage Architect and he will provide some information for consideration by 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.

### **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.

### **AT THE COUNCIL MEETING**

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 as the recommendation does not specifically relate to his place of residence and the financial impact of heritage policies is disputed by the Council.

The Committee's recommendation was moved Cr Jones, seconded Cr Craddock.

During discussion:

- Cr Kelly advised that the members of Council's Heritage Advisory Committee (which includes himself, Cr Whittle and a number of community representatives) have reviewed the draft policies and discussed the effect of the policies with the Heritage Architect and the City's Strategic Planning Officer who is also a qualified Historian. He added that the *City of Bunbury Municipal Inventory* will be reviewed shortly and each property in Stirling Street will be independently assessed as part of this process to determine its "level of contribution" to the heritage precinct. Properties will be deleted from the precinct if considered necessary.
- The Mayor reminded members of the Council that all policies are reviewed on a regular basis.
- Cr Whittle indicated that the proposed review of the Design Guidelines will be a lengthy process so it will not be possible for a "draft" to be submitted to the Council at any time soon.
- The Executive Manager of City Development confirmed that whilst point 2. of the motion is relevant it is not essential with respect to adoption of the planning policies.

The Mayor put the motion to the vote and it was defeated 2 votes "for" to 11 votes "against".

Cr Kelly moved, Cr Whittle seconded the original recommendation printed in the meeting agenda. The Mayor put the motion to the vote and it was adopted to become the Council's decision on this matter.

A request was made to record the vote as follows:

For: Mayor D Smith; Crs Craddock, Dillon, Major, Leigh, Worthington, Kelly, Punch, Whittle and Slater

Against: Crs Jones, Rooney and Steck

**Council Decision 29/08**

*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*

**CARRIED**

**10 Votes "For" / 3 Votes "Against"**  
**Absolute Majority Vote Attained**

**11.11 GRAND CANALS SUBDIVISION - ABORIGINAL HERITAGE ISSUE** (WAS LISTED AS  
ITEM 11.5 ON THE MEETING AGENDA)

<b>File Ref:</b>	A01981
<b>Applicant/Proponent:</b>	Department of Indigenous Affairs
<b>Author:</b>	Ben Deeley, Environmental Officer
<b>Executive:</b>	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 motion was put to the vote and defeated 4 votes "for" to 8 votes "against". 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.



**Additional Executive Comments - 26 February 2008**

Further to concerns raised during discussion of this matter by the Council Committee on 19 February 2008, additional information is provided for consideration by the members of Council.

The City of Bunbury's Environmental Officer has liaised with both the Department of Indigenous Affairs and local consulting anthropologists, who have advised that the proposed 'omnibus section 18 notice' will involve the exact same assessment process and will incur the same costs as required for a section 18 notice for an individual proposal i.e. the cost of preparing the section 18 notice for the City of Bunbury's future maintenance dredging at the subdivision alone is equal to the cost of preparing the omnibus section 18 notice.

On 18 February 2008, the Department of Indigenous Affairs advised the City of Bunbury that the Aboriginal Cultural Heritage Committee ("ACMC") often considers proposals that are in research and development stages and lack certain detail (e.g. firm timeframes etc.), provided that sufficient information is available to allow for an assessment of the likely impacts on Aboriginal heritage values. The Department advised that whilst the City of Bunbury has not prepared a maintenance dredging program for the Grand Canals to date, the City of Bunbury should be able to provide sufficient information to allow for consideration of the proposal by the ACMC (e.g. likely size of the dredge, maximum depth of dredging, time of year, potential spoil placement etc.). Furthermore, the City Engineer has advised that such information will be available for inclusion in the omnibus section 18 notice should this option be pursued by Council.

Correspondence was received from the Department of Indigenous Affairs on 21 February 2008 regarding the use of the 'omnibus section 18 notice' approach to proposed assessments under the WA Aboriginal Heritage Act 1972. The Department has clarified that this approach has been utilised by other proponents in the past in order to streamline the approval process and it is agreeable to this approach being used for the Grand Canals Subdivision. A copy of the email is **attached** to this agenda at Appendix 13 for councillor information.

**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.

**AT THE COUNCIL MEETING**

The Mayor permitted Grand Canals Estate resident, Mr Edwin Abdo, to address the members of the Council on this matter.

Mr Abdo circulated a written report to members of the Council listing the background to his application for a jetty and advice he had received from Council Officers and the Department of Indigenous Affairs concerning the requirement to obtain approval from the indigenous community and, the City's previous advice that it would seek an Omnibus Section 18 Notice to cover all residents of the estate. A copy of Mr Abdo's notes is **attached** at Appendix 14.

Mr Abdo and the City's Executive responded to numerous questions from Council Members before the original recommendation (as printed in the meeting agenda) was moved by Cr Slater and seconded by Cr Craddock.

During discussion of the motion:

- Numerous speakers indicated that on the strength of further comment received from the Department of Indigenous Affairs (Appendix 13) and Mr Abdo (Appendix 14), they now support the proposal to apply for an omnibus notice.
- An alternative to the motion was foreshadowed by Cr Worthington, as follows:
  - "1. 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 subsequent dredging provisions for the Grand Canals Subdivision.
  2. Inclusion of the jetties be part of the development of the Omnibus Section 18 Notice - recognising that there is no cost for this aspect.
  3. Officers research and include all other aspects of maintenance that may need to be included in the Omnibus Section 18 Notice.
  4. Council notes the advice in point 7. of the email received from Denis Callaghan of the Department of Indigenous Affairs dated 21 February 2008."

Following lengthy debate, Cr Dillon moved, Cr Major seconded a procedural motion that "*the motion be put*". The motion was adopted 10 votes "for" to 3 votes "against".

Accordingly, the Mayor received the mover's closing comments before putting the motion to the vote. It was adopted to become the Council's decision as follows:

**Council Decision 30/08**

*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.*

**CARRIED**

**10 Votes "For" / 3 Votes "Against"**  
**Absolute Majority Vote Attained**

**11.12 TENDER RFT 2007/2008-04 - BUILDING AND GENERAL ELECTRICAL SERVICES FOR MAINTENANCE AND MINOR WORKS** (*WAS LISTED AS ITEM 11.6 ON THE MEETING AGENDA*)

<b>File Ref:</b>	A02360
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Mark Robson, Contracts Coordinator
<b>Executive:</b>	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.

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 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 (11 votes "for" to nil votes "against") 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.

### **AT THE COUNCIL MEETING**

Councillor Leigh disclosed a financial interest as his company has done some work for the tenderers listed on previous occasions. He left the meeting at 9.30pm for the duration of discussion and the vote on this matter.

The Committee's recommendation was moved Cr Dillon, seconded Cr Jones.

The Mayor put the motion to the vote and it was adopted to become a Council Decision.

**Council Decision 31/08**

*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**

**12 Votes "For" / nil Votes "Against"**

Cr Leigh returned to the meeting at 9.31pm.

Per Council Decision 31/08 above, the successful tender prices recorded are:

1. Bricknell Electrics - Standard rate \$75.00; Call-out fee n/a; A/hours rate \$100.00; Penalty Rates (all) \$100.00; Materials supplied at cost plus mark-up for profit on state percentage (20%)
2. Barry Allen Electrical Services - Standard rate \$80.00; Call-out fee n/a; A/hours rate \$110.00; Penalty Rates (w/ends) \$110.00; Penalty Rates (P/Holiday) \$120.00; Materials supplied at cost plus mark-up for profit on state percentage (15%)
3. Jandco Electrics - Standard rate \$76.00; Call-out fee (all) \$76.00; A/hours rate \$76.00; Penalty Rates (all) \$76.00; Materials supplied at cost plus mark-up for profit on state percentage (20%)
4. Jandco Electrics - Standard rate \$76.00; Call-out fee (all) \$76.00; A/hours rate \$76.00; Penalty Rates (all) \$76.00; Materials supplied at cost plus mark-up for profit on state percentage (20%)



**11.13 EXTRAORDINARY ELECTION - RESIGNATION OF COUNCILLOR DILLON** (WAS LISTED AS ITEM 11.11 ON THE MEETING AGENDA)

<b>File Ref:</b>	New File
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	John Beaton, Manager Administration & Property Services
<b>Executive:</b>	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 unanimously 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.

**AT THE COUNCIL MEETING**

The Mayor noted that councillors had been provided with information concerning the costs of elections in a memorandum issued to them in the week preceding the Council Meeting.

Option 2 (as printed in the meeting agenda) was moved by Cr Steck and seconded Cr Leigh. The Mayor put the motion to the vote and it was adopted to become a Council Decision.

The Council did not nominate a date for the election but it was generally agreed that due to the requirement to meet statutory provisions for elections and to make the necessary arrangements to staff the operation, it would be at least 3-months until the election could take place.

**Council Decision 32/08**

*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.*

**CARRIED**

**8 Votes "For" / 5 Votes "Against"**

Crs Slater and Rooney requested that their votes "against" the Council's decision, be recorded.

**12. MOTIONS (OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN)**

Nil.

**13. "URGENT" BUSINESS WITH THE APPROVAL OF THE MAJORITY OF MEMBERS PRESENT**

Nil.

**14. ITEMS TO BE NOTED (NO DISCUSSION)**

There were no new items for noting.

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

Nil.

**16. CLOSURE OF MEETING**

The Mayor declared the meeting closed at 9.50pm.

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CONFIRMED this day 18 March 2008 to be a true and correct record of proceedings of the Bunbury City Council Meeting held 26 February 2008.

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**MR DAVID SMITH**  
**MAYOR**