



9 September 2008

CONTENTS

Council Meeting Minutes

<u>Item No</u>	<u>Subject</u>	<u>Page</u>
1.	DECLARATION OF OPENING BY THE MAYOR.....	1
2.	RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE	1
3.	RESPONSES TO 'PUBLIC QUESTIONS' FROM THE PREVIOUS COUNCIL MEETING (WHERE THEY COULD NOT BE ANSWERED AT THAT MEETING)	2
4.	PUBLIC QUESTION TIME - AS SPECIFIED UNDER SECTION 5.24 OF THE LOCAL GOVERNMENT ACT 1995.....	2
5.	QUESTIONS ON NOTICE FROM MEMBERS OF COUNCIL (WITHOUT DISCUSSION).....	2
6.	CONFIRMATION OF PREVIOUS MINUTES	3
7.	DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995.....	4
8.	ANNOUNCEMENTS BY THE MAYOR (WITHOUT DISCUSSION).....	4
9.	CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS.....	5
9.1	REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR HELEN PUNCH.....	5
9.2	REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR BRENDAN KELLY	6

<u>Item No</u>	<u>Subject</u>	<u>Page</u>
9.3	REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR WAYNE MAJOR.....	7
9.4	REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR DEREK SPENCER.....	8
10.	RECEPTION OF FORMAL PETITIONS AND MEMORIALS	9
10.1	PETITION - OPPOSE PROPOSED REZONING - TOWN PLANNING SCHEME AMENDMENT - PORTION LOT 14 (NO. 7) GARVEY PLACE, BUNBURY.....	9
11.	RECEPTION OF REPORTS AND RECOMMENDATIONS FROM THE COUNCIL (STANDING) COMMITTEE MEETING HELD 2 SEPTEMBER 2008	11
11.1	BUNBURY AIRPORT - NEW (AND ASSIGNMENT OF) LEASES FOR HANGAR SITES NOS. 20, 26, 49 AND 50 TO VARIOUS PARTIES, AND, GRANT OF SUB-LEASE OVER SITE 28A (<i>WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA</i>)	12
11.2	ADVISORY COMMITTEE AND/OR PROJECT CONTROL GROUP MINUTES NOTED AT THE COUNCIL COMMITTEE MEETING ON 2 SEPTEMBER 2008 (<i>WAS LISTED AS ITEM 11.5 ON THE MEETING AGENDA</i>)	20
11.3	ITEMS NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING HELD ON 2 SEPTEMBER 2008 (<i>WAS LISTED AS ITEM 11.6 ON THE MEETING AGENDA</i>)	21
11.4	TOWN PLANNING SCHEME AMENDMENT - PORTION LOT 14 (NO. 7) GARVEY PLACE, BUNBURY - REZONE TO "MIXED BUSINESS" (<i>WAS LISTED AS ITEM 11.1 ON THE MEETING AGENDA</i>)	22
11.5	GLEN IRIS-MOORLANDS LOCAL AREA PLAN: FIRST STAGE OF IMPLEMENTATION (SCHEME AMENDMENTS NOS. 26 AND 29) TO RATIONALISE ZONINGS AND ESTABLISH GATEWAY COMMERCIAL PRECINCT (<i>WAS LISTED AS ITEM 11.2 ON THE MEETING AGENDA</i>)	33
11.6	PROPOSED APPOINTMENT TO CITY PROMOTIONS COMMITTEE (<i>WAS LISTED AS ITEM 11.3 ON THE MEETING AGENDA</i>).....	44
12.	MOTIONS (OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN).....	48
12.1	MOTION ON NOTICE - COMMUNITY CONSULTATION REQUIREMENTS FOR REZONING APPLICATIONS.....	48

<u>Item No</u>	<u>Subject</u>	<u>Page</u>
13.	"URGENT" BUSINESS WITH THE APPROVAL OF THE MAJORITY OF MEMBERS PRESENT AS PERMITTED UNDER STANDING ORDER 5.1.13.....	51
14.	ITEMS TO BE NOTED (NO DISCUSSION).....	51
15.	CONFIDENTIAL BUSINESS AS STIPULATED UNDER SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995	51
15.1	ANNUAL PERFORMANCE APPRAISAL - CHIEF EXECUTIVE OFFICER	52
16.	CLOSE OF MEETING.....	53

GLOSSARY OF ABBREVIATED TERMS

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

Term	Explanation
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
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

Term	Explanation
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 an Ordinary Meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 9 September 2008.

MINUTES

9 September 2008

NOTE: Decisions in this document are subject to confirmation at the subsequent meeting of the Council.

1. DECLARATION OF OPENING BY THE MAYOR

His Worship the Mayor, Mr David Smith, declared the meeting open at 6.02pm.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor S Craddock
Members:	Councillor J Jones
	Councillor S Rooney
	Councillor B Kelly
	Councillor W Major
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck
	Councillor J Harrop
Councillor D Spencer	
Executive Management Team (Non-Voting)	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Mr D Marzano
Council Officers (Non-Voting):	
Manager - Development Services:	Mr G Fitzgerald
Administration Officer Corporate Services:	Ms D Ryan
Others (Non-Voting):	
Members of the Public:	25 (approx.)
Members of the Press:	Nil

APOLOGY:

Councillor Alfred Leigh

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

Nil.

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

Nil.

6. CONFIRMATION OF PREVIOUS MINUTES

Cr Major moved, Cr Harrop seconded a motion to confirm the minutes. During discussion of the motion, the following points were raised:

- Cr Kelly disputed a sentence contained within the Mayor's Response No. 2 for a question asked by Ms Karen Steele (SOS Action Group) on page 6 where it states: *"The Mayor clarified that projects outlined in Stage 1 are not final. There were no agreements or decision entered into by Council to sell any particular pieces of land to fund Stage 1 of the development or at the time the plan was produced, no decision made to what land would be sold to fund the City's contribution of \$3.5 million for the Timber Jetty"*.

Cr Kelly stated that he is of the opinion that funding for restoration of the Bunbury Timber Jetty had been resolved some time ago and wanted to know what "plan" was being referred to and where the land to be sold is located.

The Mayor confirmed that the Punchbowl Caravan Park site had already been identified as land that would be sold to fund the jetty restoration and that this was determined prior to the Structure Plan being presented to Council. He confirmed that the response was meant to indicate that there were no agreements or decisions entered into by Council with Landcorp for Landcorp to sell any particular pieces of land. There was no formal plan of lots to be sold as it was a general understanding that the project would be cost-neutral and that it would be covered from general land sales.

To clarify the situation, the Mayor agreed to amend the wording of Response No. 2 to read *"The Mayor clarified that projects outlined in Stage 1 are not final. There were no agreements or decision entered into by Council **with Landcorp for Landcorp** to sell any particular pieces of land to fund Stage 1 of the development, **nor** at the time the **Bunbury Waterfront Stage 1 Plan** was produced, **any** decision made to what land would be sold to fund the City's contribution of \$3.5 million for the Timber Jetty"*.

- Cr Kelly referred to page 87 of the minutes (item 12.2 *"Motion on Notice – Bunbury Timber Jetty - Rescind Council Decision 203/07 made 16 October 2007"*) and stated that it was his recollection that a record of votes was taken and the outcome of the record of votes was the reverse of that which appears on page 82. The Mayor advised that he could not accurately recall whether this was the case but if a check of the audio recording for the meeting corroborated Cr Kelly's claim, then the minutes would be amended accordingly.

<p>Note: At this point (6.10pm) the Mayor adjourned the meeting for a period of two minutes after an Elected Member had refused to comply with Standing Order 7.4 requiring the Member to cease speaking and sit while the Mayor spoke. Following the adjournment, the meeting re-commenced with no change to the attendance list.</p>
--

The Mayor put the motion moved Cr Major, seconded Cr Harrop (and amended to reflect changes required to the minutes) to the vote and it was adopted to become a Council decision.

Council Decision 154/08

The minutes of the Council Meeting held 19 August 2008, be confirmed as a true and accurate record subject to the following amendments:

1. *Page 6 - To better clarify the situation, replace the wording for Response No. 2 to Ms Steele's question with the following wording: "The Mayor clarified that projects outlined in Stage 1 are not final. There were no agreements or decision entered into by Council with Landcorp for Landcorp to sell any particular pieces of land to fund Stage 1 of the development nor at the time the Bunbury Waterfront Stage 1 Plan was produced, any decision made to what land would be sold to fund the City's contribution of \$3.5 million for the Timber Jetty".*
2. *Page 87 - If substantiated by the audio recording for the meeting, the following record of votes to be inserted for Cr Kelly's motion*

For: Crs Kelly, Jones, Major, Slater and Steck

Against: Mayor D Smith, and; Crs Harrop, Spencer, Leigh, Punch, Craddock, Whittle

CARRIED

12 Votes "For" / Nil Votes "Against"

NOTE: A subsequent check of the audio recording has confirmed that the record of votes referred to in point 2. of Council Decision 154/08, took place.

7. DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995

Nil.

8. ANNOUNCEMENTS BY THE MAYOR (WITHOUT DISCUSSION)

Nil.

9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS

9.1 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR HELEN PUNCH

File Ref:	A00215
Applicant/Proponent:	Councillor Helen Punch
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary/Background

Councillor Punch requests leave of absence from all Council-related business between the following dates:

- Thursday, 25 September to Friday, 4 October 2008 (attending a festival in Canberra)
- Tuesday, 25 November to Thursday, 18 December 2008 (overseas visiting relatives)

Section 2.25 of the Local Government Act 1995, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six consecutive ordinary meetings of the Council.

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Helen Punch is granted leave of absence from all Council-related business between the following dates:

- Thursday, 25 September to Friday, 4 October 2008
- Tuesday, 25 November to Thursday, 18 December 2008

AT THE COUNCIL MEETING

The recommendation (as printed) was moved Cr Craddock, seconded Cr Major. It was put to the vote and adopted to become a Council Decision.

Council Decision 155/08

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Helen Punch is granted leave of absence from all Council-related business between the following dates:

- 1. Thursday, 25 September to Friday, 4 October 2008*
- 2. Tuesday, 25 November to Thursday, 18 December 2008*

CARRIED

12 Votes "For" / Nil Votes "Against"

9.2 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR BRENDAN KELLY

File Ref:	A00215
Applicant/Proponent:	Councillor Brendan Kelly
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary/Background

Councillor Kelly requests leave of absence from all Council-related business between 28 September and 4 October 2008 (inclusive) as he is going interstate.

Section 2.25 of the Local Government Act 1995, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six consecutive ordinary meetings of the Council.

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Brendan Kelly is granted leave of absence from all Council-related business between 28 September and 4 October 2008 (inclusive)

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Jones, seconded Cr Major. It was put to the vote and adopted to become a Council decision.

Council Decision 156/08

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Brendan Kelly is granted leave of absence from all Council-related business between 28 September and 4 October 2008 (inclusive)

CARRIED

12 Votes "For" / Nil Votes "Against"

9.3 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR WAYNE MAJOR

File Ref:	A00215
Applicant/Proponent:	Councillor Wayne Major
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary/Background

Councillor Major requests leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive) as he is going interstate.

Section 2.25 of the Local Government Act 1995, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six consecutive ordinary meetings of the Council.

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Wayne Major is granted leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive)

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Craddock, seconded Cr Harrop. It was put to the vote and adopted to become a Council decision.

Council Decision 157/08

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Wayne Major is granted leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive)

CARRIED

12 Votes "For" / Nil Votes "Against"

9.4 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR DEREK SPENCER

File Ref:	A00215
Applicant/Proponent:	Councillor Derek Spencer
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary/Background

Councillor Spencer requests leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive) as he is going interstate.

Section 2.25 of the Local Government Act 1995, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six consecutive ordinary meetings of the Council.

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Derek Spencer is granted leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive)

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Rooney, seconded Cr Craddock. It was put to the vote and adopted to become a Council decision.

Council Decision 158/08

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Derek Spencer is granted leave of absence from all Council-related business from 1 to 30 October 2008 (inclusive)

CARRIED

12 Votes "For" / Nil Votes "Against"

10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS

10.1 PETITION - OPPOSE PROPOSED REZONING - TOWN PLANNING SCHEME AMENDMENT - PORTION LOT 14 (NO. 7) GARVEY PLACE, BUNBURY

File Ref:	P03561
Applicant/Proponent:	Anne Pattenden on behalf of Garvey Place residents
Author:	Anne Pattenden on behalf of Garvey Place residents
Executive:	<i>If accepted refer to:</i> Geoff Klem, Executive Manager City Development

Cr Major tabled a petition from Ms Anne Pattenden of 4 Garvey Place on behalf of 116 signatories requesting Council to, *"resolve NOT to initiate an amendment to Town Planning Scheme No. 7 in respect of Lot 14 (No. 7) Garvey Place, Bunbury, that changes the zoning from 'Residential' to 'Mixed Business'."* A copy of the petition is **attached** at Appendix 12.

In support of the petition, the petitioners make the following comments:

- "1. The proposed extension of the car park facilities for Gard Realty is unnecessary and the justification put forward by the applicant for the Scheme Amendment is unfounded as there is already sufficient parking provided per Town Planning Scheme No. 7.*
- 2. There is also concern that the area proposed to be rezoned could, at a later stage, be subject to further development.*
- 3. The rezoning is likely to impact negatively on the uniqueness, character and amenity of the area in general.*
- 4. The mixed business zoned land would encroach into the existing residential area.*
- 5. This is an ad hoc application that is not setting good planning practices for the future of Bunbury."*

The Mayor pointed out that the Council has a number of options under Section 9.4 of the City's Standing Orders. The options available are:

- (a) The petition be accepted; or
- (b) The petition not be accepted; or
- (c) The petition be accepted and referred to a committee for consideration and report; or
- (d) The petition be accepted and dealt with (immediately) by the full Council.

9 September 2008
Minutes - Council Meeting

Cr Major moved, Cr Jones seconded option (c). The Mayor put the motion to the vote and it was adopted as a Council decision.

Council Decision 159/08

The petition requesting the Council NOT to initiate a Town Planning Scheme amendment concerning No. 7 Garvey Place, Bunbury be accepted and referred to a committee for consideration and report.

CARRIED

7 Votes "For" / 5 Votes "Against"

11. RECEPTION OF REPORTS AND RECOMMENDATIONS FROM THE COUNCIL
(STANDING) COMMITTEE MEETING HELD 2 SEPTEMBER 2008

At this point in proceedings, the Council adopted *en bloc* committee recommendations listed under items 11.4, 11.5 and 11.6 of the meeting agenda (as permitted under the City's Standing Orders).

Items 11.1, 11.2 and 11.3 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 BUNBURY AIRPORT - NEW (AND ASSIGNMENT OF) LEASES FOR HANGAR SITES NOS. 20, 26, 49 AND 50 TO VARIOUS PARTIES, AND, GRANT OF SUB-LEASE OVER SITE 28A (WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA)

File Ref:	F00080
Applicant/Proponent:	Site 20: Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) Site 26: Michael Donald Fletcher, Terence Andrew Doe, Leslie John Doe and Blair Howe Site 28A: Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) Site 49: Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) Site 50: Nicole Grigo (on behalf of ERG Electrics Pty Ltd)
Author:	Nigel Archibald, Airport Reporting Officer and John Beaton, Manager Administration & Property Services
Executive:	Michael Scott, Executive Manager City Services

Summary

The following are details of applications for new (and assignment of) leases and a sub-lease at the Bunbury Airport. All leases at the airport expire on 30 June 2011 pursuant to the Bunbury Airport Strategic Directions Plan 2000-2010:

1. Hangar Site No. 20 (Assignment of Lease) - The Lessee, Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) wishes to assign the lease over Bunbury Airport Site No. 20 to Michael Allan Doyle and Cherie Anne Doyle t/as Doyson Pty Ltd. The site is currently sub-leased to Peter John Snook and Sandra Lynn Snook (t/as Aeronautique Australia) and they have no objection to the proposed assignment subject to their being granted a sub-lease over Site No. 28A which is also leased by Blair Howe.
2. Hangar Site No. 26 (Assignment of Lease) - The Lessees - Michael Donald Fletcher, Terence Andrew Doe, Leslie John Doe and Blair Howe - wish to assign the lease in the name of Michael Donald Fletcher, Robert Esplen Main, Gregory John Kuipers and Colin Dinis.
3. Hangar Site No. 28A (Sub-Lease) - As a condition of the proposed assignment of Site No. 20 the Lessee (Blair Howe of Southern Aviation Pty Ltd t/as Bunbury Flying School) wishes to sub-lease a portion of the combined lease area of Site 28A, 28B and 28C to Peter John Snook and Sandra Lynn Snook (t/as Aeronautique Australia).

4. Hangar Site No. 49 (New Lease)

Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) seeks Council's consideration to lease Bunbury Airport Site No. 49 for the storage of aircraft for a term commencing 1 September 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011. As the site is located in the recently completed extended hangar area at the airport, the Lessee will be required to contribute to headworks at a rate of \$12.00 per square metre.

5. Hangar Site No. 50 (New Lease)

Ms Nicole Grigo has made application on behalf of Gelorup-based business ERG Electrics Pty Ltd (ABN 52 102 846 935), to lease Bunbury Airport Site No. 50 for the storage of aircraft for a term commencing 1 October 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011. As the site is located in the recently completed extended hangar area at the airport, ERG will be required to contribute to headworks at a rate of \$12.00 per square metre.

A plan of the airport showing the location of the various lease sites, is **attached** at Appendix 7 and a Confidential Report providing the names of company directors has been circulated to Council Members under separate cover.

Background

The Bunbury Airport is located on Reserve 27686, Lot 455 South Western Highway, Bunbury. The land is held by the City of Bunbury under Management Order 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 terms and conditions of all existing leases at the Bunbury Airport have been determined in accordance with the *Bunbury Airport Strategic Plan Directions 2000–2010* which requires the leases to have corresponding expiry dates, terms and conditions.

Lease Details

Details of current and proposed leases and sub-lease details are contained in the schedule **attached** at Appendix 8.

The City's Executive, the Assignor and Assignee have mutually agreed on the terms and conditions of assignment for the unexpired term of the lease.

Strategic and/or Regional Outcomes

Strategic Outcomes

The proposal complies with the *City of Bunbury Strategic Plan 2007-2012* and in particular Strategy 2.4 which states that the City will: "*develop a Property Strategy that benefits the City's residents, businesses and community/sporting organisations.*"

The proposal also complies with the *Bunbury Airport Structure Plan 2008* that was adopted at the Council Meeting on 19 August 2008.

Regional Outcomes

The proposal provides opportunities to interested persons from the Greater Bunbury Region to lease and/or use the Bunbury Airport.

Bunbury Airport - Operational and Strategic Directions

Development and future direction at the airport is specified within the *Bunbury Airport Structure Plan* and leasing at the airport is guided by the *Bunbury Airport Strategic Directions Plan 2000-2010*.

Community Consultation

Public notice of the intention to assign leases and grant new leases and a sub-lease at the airport will be advertised pursuant to Section 3.58 of the Local Government Act 1995 with a public submission period of fourteen (14) days.

Councillor/Officer Consultation

Council officers have held discussions with the applicants who are fully aware of (and have mutually agreed to) the terms and conditions of leasing at the Bunbury Airport.

Analysis of Financial and Budget Implications

Lease fees for the Bunbury Airport were adopted at the Council Meeting held 5 August 2008 and are increased annually in line with Council's *Commercial and Industrial Rate* throughout the term.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The use of aircraft provides economic benefits to suppliers and businesses in Bunbury.

Social Issues

The airport provides joint facilities for aviation enthusiasts to meet with like-minded individuals.

Environmental Issues

The numerous applications in this report do not conflict with the “Bunbury Airport Location Analysis Study City of Bunbury” compiled by Connell Wagner Pty Ltd in April 2004; and lease of hangars at the airport is in keeping with the amenity of the area.

Heritage Issues

There are no known heritage issues relative to the various proposals.

Council Policy Compliance

There is no Council Planning or Administrative Policy concerning leasing arrangements at the airport. However, at its meeting on 19 August 2008 the Council adopted the *Bunbury Airport Structure Plan 2008* which governs the process and future direction of development at the airport. All leases at the airport contain a common expiry date and conditions in line with the *Bunbury Airport Strategic Directions Plan 2000–2010*.

Legislative Compliance

The intention to assign leases and grant new leases and a sub-lease at the Bunbury Airport will be advertised for public information with a submission period of fourteen (14) days in accordance with Section 3.58(3) and (4) of the Local Government Act 1995.

Pursuant to Section 18 of the *Land Administration Act 1997*, the Office of the Minister for Lands has no objection to the various leasing proposals.

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 presented to Council for endorsement before documentation is finalised.

It is proposed that subject to no objecting submissions being received as a result of public advertising, the Chief Executive Officer will proceed with preparation and signing of lease documents.

Relevant Precedents

Council leases many hangar sites at the Bunbury Airport and regularly considers requests for new and assigned leases due to the growing and shifting demand for aircraft hangars within the local community.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council may elect not to support the recommendation (either whole or in part) as listed in this report - to be specified at the meeting.

Conclusion

It is proposed that Council enter into a number of new leases, a sub-lease and assignment of leases at the Bunbury Airport. Leasing arrangements at the airport are constantly changing in line with community demand and the new leasing arrangements specified in this report meet with the following objectives.

- The City will meet its responsibilities for the management, care and control of Reserve 27686, Lot 455 South Western Highway, Bunbury for the benefit of the local community as an airport and aerodrome.
- All leases at the airport are required to have common terms, conditions and expiry dates as required under the *Bunbury Airport Strategic Directions Plan 2000-2010*. These terms and conditions were mutually agreed to by the City's Executive, airport stakeholders and the Council when the plan was adopted in December 2000.
- The leasing proposals meet the criteria in the *Airport Structure Plan* adopted by Council at its meeting on 19 August 2008.

Recommendation

PART 1

Council agrees to grant the following assignments of lease, new leases and a sub-lease at the Bunbury Airport on Reserve 27686, Lot 455 South Western Highway, Bunbury, subject to the terms and conditions as specified in the report to Council (and the Schedule thereto) and part 2. below:

1. Hangar Site No. 20 (Assignment of Lease) - The Lessee, Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) to assign the lease over the site to Michael Allan Doyle and Cherie Anne Doyle t/as Doyson Pty Ltd.
2. Hangar Site No. 26 (Assignment of Lease) - The Lessees - Michael Donald Fletcher, Terence Andrew Doe, Leslie John Doe and Blair Howe - to assign the lease in the name of Michael Donald Fletcher, Robert Esplen Main, Gregory John Kuipers and Colin Dinis.
3. Hangar Site No. 28A (Sub-Lease) - The Lessee, Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) to sub-lease a portion of the combined lease area of Sites 28A, 28B and 28C to Peter John Snook and Sandra Lynn Snook (t/as Aeronautique Australia).
4. Hangar Site No. 49 (New Lease) - Blair Howe of Southern Aviation Pty Ltd (t/as Bunbury Flying School) to lease Bunbury Airport Site No. 49 for the storage of aircraft for a term commencing 1 September 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011.
5. Hangar Site No. 50 (New Lease) - ERG Electrics Pty Ltd (ABN 52 102 846 935) to lease Bunbury Airport Site No. 50 for the storage of aircraft for a term commencing 1 October 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011.

PART 2

1. The terms and conditions of all leases at the Bunbury Airport are to comply with the *Bunbury Airport Strategic Plan Directions 2000–2010* adopted by Council in December 2000. All leases are to have a common expiry date of 30 June 2011.
2. Public notice of the intention to assign, lease and sub-lease at the Bunbury Airport will be provided pursuant to Section 3.58 of the Local Government Act 1995, through notices displayed 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.

3. Subject to no objecting submissions being received, the Chief Executive Officer is authorised to proceed with preparation (and subsequent signing) of lease documentation.
4. The Minister for Lands to endorse all lease documentation for the Bunbury Airport.
5. All costs associated with the leasing proposals at the Bunbury Airport are the responsibility of the applicants.

Outcome of the Council Committee Meeting - 2 September 2008

Cr Leigh disclosed a financial interest as he has had business dealings with one of the applicants. He left the meeting for the duration of discussion and the vote on this issue.

The recommendation (as printed in the meeting agenda) was moved Cr Slater, seconded Cr Spencer.

Following an explanation of the term "Headworks" by the Executive Manager of City Services, the Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue 12 votes "for" to nil votes "against".

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Major, seconded Cr Slater. It was put to the vote and adopted to become a Council Decision.

Council Decision 160/08

PART 1

Council agrees to grant the following assignments of lease, new leases and a sub-lease at the Bunbury Airport on Reserve 27686, Lot 455 South Western Highway, Bunbury, subject to the terms and conditions as specified in the report to Council (and the Schedule thereto) and part 2. below:

1. *Hangar Site No. 20 (Assignment of Lease) - The Lessee, Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) to assign the lease over the site to Michael Allan Doyle and Cherie Anne Doyle t/as Doyson Pty Ltd.*
2. *Hangar Site No. 26 (Assignment of Lease) - The Lessees - Michael Donald Fletcher, Terence Andrew Doe, Leslie John Doe and Blair Howe - to assign the lease in the name of Michael Donald Fletcher, Robert Esplen Main, Gregory John Kuipers and Colin Dinis.*

3. *Hangar Site No. 28A (Sub-Lease) - The Lessee, Blair Howe (Southern Aviation Pty Ltd t/as Bunbury Flying School) to sub-lease a portion of the combined lease area of Sites 28A, 28B and 28C to Peter John Snook and Sandra Lynn Snook (t/as Aeronautique Australia).*
4. *Hangar Site No. 49 (New Lease) - Blair Howe of Southern Aviation Pty Ltd (t/as Bunbury Flying School) to lease Bunbury Airport Site No. 49 for the storage of aircraft for a term commencing 1 September 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011.*
5. *Hangar Site No. 50 (New Lease) - ERG Electrics Pty Ltd (ABN 52 102 846 935) to lease Bunbury Airport Site No. 50 for the storage of aircraft for a term commencing 1 October 2008 with an option to renew for a further five (5) years following the common expiry date of 30 June 2011.*

PART 2

1. *The terms and conditions of all leases at the Bunbury Airport are to comply with the Bunbury Airport Strategic Plan Directions 2000–2010 adopted by Council in December 2000. All leases are to have a common expiry date of 30 June 2011.*
2. *Public notice of the intention to assign, lease and sub-lease at the Bunbury Airport will be provided pursuant to Section 3.58 of the Local Government Act 1995, through notices displayed 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.*
3. *Subject to no objecting submissions being received, the Chief Executive Officer is authorised to proceed with preparation (and subsequent signing) of lease documentation.*
4. *The Minister for Lands to endorse all lease documentation for the Bunbury Airport.*
5. *All costs associated with the leasing proposals at the Bunbury Airport are the responsibility of the applicants.*

CARRIED

12 Votes "For" / Nil Votes "Against"

11.2 ADVISORY COMMITTEE AND/OR PROJECT CONTROL GROUP MINUTES NOTED AT THE COUNCIL COMMITTEE MEETING ON 2 SEPTEMBER 2008
(WAS LISTED AS ITEM 11.5 ON THE MEETING AGENDA)

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

Committee Members referred to the report circulated under separate cover containing sets of minutes from a number of the Council's advisory committees.

The recommendation to note each set of minutes (as printed) was moved Cr Craddock, seconded Cr Jones and adopted to become the Committee's recommendation on this issue 13 votes "for" to nil votes "against".

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Major, seconded Cr Slater. It was put to the vote and adopted to become a Council Decision.

Council Decision 161A/08

The following Advisory Committee Meeting Minutes listed in the report circulated under separate cover, are noted for information only:

- 1. Title: Minutes - Airport Advisory Committee (14/08/08)
Author: Nigel Archibald, Airport Reporting Officer
File: F00080*
- 2. Title: Minutes - City Promotions Committee (21/07/08)
Author: Michael Fraser, Events Officer
File: A03402*
- 3. Title: Minutes - Bunbury Library Project Control Group (6/06/08)
Author: Stewart Parkinson, Project Manager
File: A02351*
- 4. Title: Minutes - Bunbury Coastal Enhancement Project Control Group (30/05/08)
Author: Stewart Parkinson, Project Manager
File: A02019*
- 5. Title: Minutes - Big Swamp Wildlife Park Steering Committee (A00143)
Author: Grant Bilton, Senior Technical Officer - Parks & Urban Design
File: A00143*

CARRIED

12 Votes "For" / Nil Votes "Against"

11.3 ITEMS NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING HELD ON 2 SEPTEMBER 2008 *(WAS LISTED AS ITEM 11.6 ON THE MEETING AGENDA)*

File Ref:	A01981
Applicant/Proponent:	Internal Report
Author:	Ben Deeley, Environmental Officer
Executive:	Geoff Klem, Executive Manager City Development

Committee Members referred to the report circulated under separate cover. The recommendation (as printed) was moved Cr Jones, seconded Cr Leigh and adopted 13 votes "for to nil votes "against" to become the Committee's recommendation on this issue

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Major, seconded Cr Slater. It was put to the vote and adopted to become a Council Decision.

Council Decision 161B/08

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

- Title: Grand Canals Estate Omnibus Section 18 Notice - Update*
Author: Ben Deeley, Environmental Officer
File: A01981

CARRIED

12 Votes "For" / Nil Votes "Against"

11.4 TOWN PLANNING SCHEME AMENDMENT - PORTION LOT 14 (NO. 7) GARVEY PLACE, BUNBURY - REZONE TO "MIXED BUSINESS" (WAS LISTED AS ITEM 11.1 ON THE MEETING AGENDA)

File Ref:	P03561
Applicant/Proponent:	Griffiths Planning on behalf of Gard Realty
Author:	Lindsay Bergsma, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

Griffiths Planning acting on behalf of Gard Realty, has lodged an application with the City to amend the current Town Planning Scheme No. 7 ("TPS No. 7"). The proposal is to rezone a portion of Lot 14 (No. 7) Garvey Place from its current "Residential" (R15) zoning to "Mixed Business" zone.

The land proposed to be rezoned is a 246m² portion of the eastern side of the subject lot. The adjoining lot to the east is Lot 15 (No. 78) Spencer Street, the lot on which Gard Realty is currently situated (which is currently zoned "Mixed Business"). The proposed amendment seeks to adjust the boundary to create a larger mixed business development site.

The proposed rezoning is referred to Council for its consideration and determination.

Background

The lot the subject of the proposed rezoning is Lot 14 (No. 7) Garvey Place. A location plan of the subject lot is **attached** at Appendix 1 and an aerial photo is **attached** at Appendix 2.

Griffiths Planning was engaged by Gard Realty to progress a rezoning which reflects the landowner's intention to reposition the boundary between Lot 14 (No. 7) Garvey Place and Lot 15 (No. 78) Spencer Street. The landowner is requesting that the land be rezoned to provide the opportunity to increase the size of Lot 15 to provide a larger mixed business site.

In regards to the current land use, Lot 14 (No. 7) Garvey Place includes an existing dwelling and associated outbuildings. Lot 15 (No. 78) Spencer Street is currently developed as an office and is occupied by Gard Realty (see photo 1 **attached** at Appendix 3).

This proposal was initially listed on the agenda of the Council Committee meeting of 22 July 2008. However, the applicant requested that the item be withdrawn from that meeting. The applicant then submitted further information/justification to the City which has been duly considered.

A diagram of the proposed amendment to the Scheme map is **attached** at Appendix 4.

A subdivision concept plan was also submitted and is **attached** at Appendix 5. It reflects the future boundaries of the proposed lots. The main reason given by the applicant for the proposed boundary realignment and rezoning is that the expansion will facilitate an extension to the existing car park facilities on the Gard Realty site. The applicant argues that the initiative seeks to ensure that any parking requirements related to the land use are located onsite to reduce the level of on street parking in the vicinity and subsequently support the flow of traffic towards the busy intersection of Spencer Street and Beach Road.

The following section of the report will respond to the applicant's arguments. Relevant criteria will be used to consider the matter and will help Council in determining as to whether it will, or will not, support the proposed Scheme Amendment.

Residential Design Codes

The current land use of the subject site includes an existing dwelling and associated outbuildings. Since the site is zoned "Residential" with an R15 coding, the Residential Design Codes (R-Codes) apply. The R-Codes state that a minimum lot size of 580m² is applicable for R15 coded areas and minimum front and rear setbacks of 6m apply. The proposed boundary realignment and rezoning ensures that the resultant minimum lot size of Lot 14 (No. 7) Garvey Place would be 580m². The minimum setback requirements would also be maintained.

Land Use

As indicated earlier, the main justification given by the applicant for the proposed boundary realignment and rezoning is that the expansion will facilitate an extension to the existing car park facilities on the Gard Realty site. However, it is questioned why the extension to the car park is required. The City's Town Planning Scheme No. 7 (TPS No. 7) states that for an 'office' use, the parking requirements are 1 space for every 50m² gross floor area. The total floor area for the current office use on site is less than 400m². Therefore eight parking bays would be sufficient for the site and at present there are 9 parking bays already on site (part of the existing car park can be seen in photo 3 **attached** at Appendix 3). The proposed extension of the car park facilities for Gard Realty therefore seems unnecessary and the justification put forward by the applicant for the Scheme Amendment seems unfounded.

The applicant also argues that proposal seeks to ensure that any parking requirements related to the land use are located on site to reduce the level of on street parking in the vicinity and subsequently support the flow of traffic towards the busy intersection of Spencer Street and Beach Road. However, the justification again seems to be unfounded in that no street parking is presently allowed along Spencer Street near Gard Realty (see photo 4 showing part of Spencer Street near the front of Gard Realty - **attached** at Appendix 3).

Notwithstanding the above, there is also concern that the area proposed to be rezoned could, at a later stage, be subject to further development. Once the proposed area was rezoned (and even if it was initially used as car parking), there would be no reason why further development (e.g. showrooms or other permitted uses) could not take place on the site. If this was the case, the impact on the existing residences in Garvey Place could be dramatically increased due to the decrease in the distance between the potentially conflicting land uses.

By means of further information submitted to the City, the applicant has countered the above argument in regards to further development of the site by stating that it is not the landowner's intent to redevelop. The applicant has stated that, notwithstanding this fact, the City could implement any number of mechanisms in order to ensure that the impact of the proposed amendment and any subsequent development is minimised (e.g. a notification could be placed on the title to advise future landowners that the rear setback will be restricted to the current building line). However, even if this was to occur, any use of the area the subject of this Scheme Amendment proposal, whether it be through development or otherwise (traffic movement etc), would be more likely to impact on the adjoining residential area than if it remains as it is currently. Potential impacts of the proposal on the adjoining residential area are discussed further in the following section.

Strategic Planning

Under the current Town Planning Scheme, Lot 14 (No. 7) Garvey Place and Lot 15 (No. 78) Spencer Street are zoned "Residential" and "Mixed Business" respectively. The lots follow a pattern of the area generally in which the lots facing Spencer Street are zoned "Mixed Business" and the lots back (west) from this point are zoned "Residential". The residential area (Garvey Place in particular in this case) is a well established area with good amenity and character (a photo of the existing house at Lot 14 Garvey Place can be seen in photo 2 **attached** at Appendix 3). Therefore, currently there is a clear and defined boundary between well established residential zoned land and mixed business zoned land.

Development Services is of the opinion that the proposal is only likely to impact negatively on the area in general. If the proposed rezoning was initiated and adopted the mixed business zoned land would encroach into the existing residential area. The proposal creates another interface with the residential area and as a result there would be a possible increase in detrimental affect the commercial land use has on residential land in the area.

Further to this, there is concern that if the proposal was initiated and adopted it could possibly set a precedent which could compound the issue and further impact on the well established residential area. These potential issues should be avoided and the land uses and zonings should be maintained as they are currently.

Local Planning Policies

The applicant noted in the Scheme Amendment report that Lot 14 (No. 7) Garvey Place is within the area identified in the City's Local Planning Policy - Non Residential Development in or adjacent to Residential Areas. The lot is within a "frame" area identified in the Policy which indicates that non-residential uses may be considered in this residential area.

The applicant argues that the objectives of the Policy provides flexibility in the frame areas, recognising the transition of uses and flexibility considered appropriate in these areas. However the applicant also acknowledges that the Policy relates to non-residential uses defined under the Scheme as 'D' and 'A' (discretionary) uses within the residential zone. The relevant use in this case however is 'office' which is an 'X' (not permitted) use in the residential zone. Therefore although the applicant's argument can be seen to have some merit, in reality the Policy is not relevant in this particular case.

The applicant in the Scheme Amendment report also referred to the Local Planning Policy - Office Use Within the Mixed Business Zone. The applicant simply highlighted that the proposal accords with the Policy's intent. However, the applicant also acknowledged that the subject lot was outside of the Policy area and that there were no implications for the proposal.

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."* The recommendation in this report aims to achieve that strategy.

Community Consultation

No community consultation was necessary in this instance. The Scheme does not require the proposal to be advertised.

Councillor/Officer Consultation

This matter has been discussed amongst both the Strategic and Statutory Planning staff.

Analysis of Financial and Budget Implications

The recommendation in this report 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 or economic implications regarding the proposal. The property is not listed in the City's Municipal Inventory. With regard to social implications, there are some potential issues which have been discussed throughout this report.

Council Policy Compliance

It is considered that the recommendation does not contravene any known operable Council administrative policy.

Legislative Compliance

Rezoning of the sites is required to be undertaken in accordance with the requirements of the Planning and Development Act 2005.

Delegation of Authority

Delegation of authority is not applicable in this case.

Relevant Precedents

There are no known relevant precedents.

Options

Option 1

Refuse the request per the recommendation listed in this report.

Option 2

Should Council resolve to grant its support for the initiation of the proposed Scheme Amendment, a suggested format for such action is as follows:

"Council, under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, hereby resolves to initiate a Scheme Amendment in respect of Lot 14 (No. 7) Garvey Place, Bunbury, to allow an amendment to the current Town Planning Scheme from the current designation "Residential" zone to "Mixed Business" zone."

Conclusion

Griffiths Planning has lodged an application with the City to amend the current Town Planning Scheme. Development Services is of the opinion that the proposal is only likely to impact negatively on the surrounding residential area since the mixed business zoned land would encroach into the existing well established residential area and may also set a precedent which could compound the issue. The main reasons and justification given by the applicant for the proposed boundary realignment and rezoning are unfounded.

Recommendation

Council, under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, hereby resolves not to initiate an amendment to Town Planning Scheme No. 7 in respect of Lot 14 (No. 7) Garvey Place, Bunbury, that changes the zoning from "Residential" to "Mixed Business".

Outcome of the Council Committee Meeting - 2 September 2008

The following members of the public were invited to speak in relation to this issue:

Ken Bindon, Executor of Property at 8 Garvey Place, Bunbury

During his address, Mr Bindon raised the following points:

- Mr Bindon's elderly mother currently lives at 8 Garvey Place.
- Extending the car park behind 7 Garvey Place so that it runs along part of the side of 8 Garvey Place, will cause his mother problems due to the noise and the fact that the land level at No. 7 is higher than that at No. 8 and will allow people in the car park to see into his mother's back yard.
- Having a car park next door may be detrimental to the value of his property and/or make it harder to sell the property in the future.
- Mr Bindon complained that he was notified that the application by Gard Realty was to be dealt with at the meeting by the applicant himself - not the City. (Note: Later during the meeting it was acknowledged that the application is following a statutory process whereby should the Council decide to proceed with the Amendment, the City's officers will advertise the proposed Amendment and following the statutory submission period any community feedback received is brought back to Council before the Amendment is finalised).

Anne Pattenden, 4 Garvey Place, Bunbury

During her address, Ms Pattenden raised the following points:

- Garvey Place is a quiet residential enclave in which the street encircles a small park. It is located behind a commercial district fronting onto Spencer and Beach Roads. The residents want to maintain the family-friendly environment of Garvey Place and see the application by Gard Realty as the beginning of "the rot" i.e., large residential blocks to be gradually subdivided/rezoned and replaced with commercial and/or high-density residential buildings.
- Any increase in traffic in the street will be of concern to residents as currently, it is safe for their children to play in the park in the middle of Garvey Place.
- Ms Pattenden concurred with Mr Bindon's comments regarding lack of notification of the meeting.

Prior to the address by Ms Griffiths, there was some discussion of notification procedures to residents for Council and Committee Meetings at which planning issues are to be considered.

Janine Griffiths, Griffiths Planning (and Applicants Ron and Jason Gard - Gard Realty)

The following points were raised:

- Due to heavy traffic on Spencer Street and lack of easily accessible public parking nearby, Gard Realty's existing car park is the only place where its clients can park their vehicles and is also (increasingly) being used by the vehicles of customers of other businesses in close vicinity - this is despite signs stating that the parking area is for Gard Realty's customers only.
- The applicants are keen to talk with the neighbours to resolve any issues that are causing concern and look forward to the public consultation period of the Scheme Amendment process if the application progresses. The visual amenity from Garvey Place will not be altered as the existing fence will just be moved forward. Gard Realty is prepared to build a brick masonry wall at the appropriate height to ensure there are no privacy or amenity concerns and any drainage issues will be addressed once the car park design details are forwarded for planning approval.
- The proposal does not contravene any State planning or strategic policies or residential design codes, City Vision policies, Greater Bunbury Region Scheme or Town Planning requirements nor any Local Laws. There are no grounds (from a planning perspective) for the Council not to support the application.
- The proposal will not erode the character of the residential area behind Gard Realty's property. The interface of commercial properties backing onto residential properties is evident all along Spencer Street.

Option 2 (as printed in the meeting agenda) was moved Cr Slater, seconded Cr Jones, as follows:

"Council, under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, hereby resolves to initiate a Scheme Amendment in respect of Lot 14 (No. 7) Garvey Place, Bunbury, to allow an amendment to the current Town Planning Scheme from the current designation "Residential" zone to "Mixed Business" zone."

Extensive discussion took place on this motion, some of the main points raised were:

- It was pointed out that the report contains a sentence that states: *"No community consultation was necessary in this instance. The Scheme does not require the proposal to be advertised."*
- Some of the residential blocks around Garvey Place have already been subject to subdivision and many homes in the street back onto commercial properties.

- On-site parking provided by Gard Realty is insufficient to meet demand. It cannot provide safe on-street parking for its clients and it would be unethical to instruct its clients to use the shoppers car park at the Bunbury Forum. The nearest public car park is off Rose Street - too far to ask clients to walk.
- In response to concerns about Mrs Bindon's privacy, the Manager of Development Services stated that the requirement for fencing to be to a height of 1.8 metres is prescribed under Local Law. However, the City can approve heights higher than this if the case warrants i.e., to protect the privacy/safety of a resident.
- The Executive Manager of City Development confirmed that it is not a statutory requirement for the proposal to be advertised but this does not preclude the City from advertising the proposal for community input.
- Due to concern at the level of public consultation on this issue, the Mayor requested that the City's officers notify all residents/property owners in Garvey Place of the rezoning proposal and invite them to the Council Meeting on 9 September 2008. He added that the residents/property owners will be given the opportunity to address the members of the Council before it debates this matter except for Mr Bindon and Ms Pattenden as they have already spoken.

At this point in proceedings, Cr Craddock moved the following as an amendment to the Motion. After some discussion, the Mayor requested that it be considered as a "foreshadowed motion":

- "1. Replace the word 'initiate' with the word 'advertise'.*
- 2. The following conditions for the proposed rezoning be advertised:*
 - a) Walls high enough to ensure privacy are to be erected.*
 - b) Access to the parking area must be via Spencer Street only.*
 - c) A landscaping plan is required to soften the effect of the brick walls surrounding the parking area.*
- 3. The advertising period to be for a period of 21 days and returned to Council."*

<p>At this point, the Presiding Member put the motion moved Cr Slater, seconded Cr Jones (Option 2) to the vote and it was defeated 4 votes "for" to 9 votes "against".</p>

Cr Craddock moved his foreshadowed motion, seconded Cr Steck.

During discussion, a procedural motion to have the matter "referred back to Committee" was moved Cr Slater, seconded Cr Jones. The motion was put to the vote and defeated 4 votes "for" to 9 votes "against".

Discussion concerning the motion moved by Cr Craddock, seconded Cr Steck continued and following some minor amendment, it was put to the vote and adopted to become the Committee's recommendation on this issue A request was made to record the vote as follows:

For: Crs Craddock, Kelly, Punch, Whittle, Slater, Steck, Harrop and Spencer

Against: Mayor D Smith, and, Crs Jones, Major, Rooney and Leigh

Committee Recommendation

In relation to a proposed amendment to Town Planning Scheme No. 7 to change zoning of Lot 14 (No. 7) Garvey Place, Bunbury, from "Residential" to "Mixed Business" - before considering whether to initiate the Scheme Amendment, the Council to advertise the fact that it has received the proposal and if it is to be favourably considered by the Council, it will be subject to:

1. Walls high enough to ensure privacy are to be erected.
2. Access to the parking area must be via Spencer Street only.
3. A landscaping plan is required to soften the effect of the brick walls surrounding the parking area.
4. The advertising period to be for a period of 21 days.

AT THE COUNCIL MEETING

Prior to commencement of the meeting, residents of Garvey Place provided councillors with information opposing the proposal. Both documents are **attached** at Appendices 10 and 11.

Pursuant to a statement he had made at the Council Committee Meeting on 2 September 2008, the Mayor permitted the following public speakers to address the Council:

- Ms Kaye Cogan (Garvey Place resident) indicated that Garvey Place has a unique character and its residents represent a microcosm of the community with a varying range of interests and careers. The residents feel the proposal to rezone heralds the beginning of the commercialisation of their street and cannot understand Gard Realty's motives i.e., the business already has a parking allocation on its land that is in excess of planning requirements.

- Ms Robyn Spragg (Garvey Place resident) stated that there has been a trend recently to mix residential and commercial development e.g., Marlston Hill, but in these instances, the people that bought into such areas had made a choice to live there.
- Mr David Lindsay (Stockley Road resident) stated that he sympathised with the residents of Garvey Place. In April 2008, he had felt it necessary to voice his concerns to the Council concerning a proposal to allow a residential property in his street to be used for a commercial purpose and the effect this could have on the amenity of the street.

The applicant, Mr Gard, was invited to respond:

- Mr Ron Gard advised that in his conversations with local residents he was concerned they had been misinformed. There are no plans to install a driveway between the new car parking area and Garvey Place. More parking space is needed so his staff do not need to park their cars on vacant land behind the Highway Hotel when unauthorised vehicles are using Gard Realty's on-site parking bays. In response to criticism about public consultation, he pointed out that he originally submitted the application in May 2008 but withdrew it after some months of deliberation with Council officers. It was re-submitted recently but (based on previous experience) he was not expecting it to be presented to the Council so quickly.

The Committee's recommendation was moved Cr Slater. The motion lapsed due to lack of a seconder.

Option 1 (the original Officer's Recommendation) was moved Cr Major, seconded Cr Harrop.

During discussion the following points were raised:

- A member indicated that there may already be a safety risk for drivers entering/leaving the property due to the narrow access onto Spencer Street so near to a busy intersection. On this basis, increasing the amount of parking on-site (which is already in excess of planning requirements) could be deemed irresponsible.
- A member suggested that the problem of unauthorised vehicles using Gard Realty's parking bays could easily be overcome by the erection of more prominent signs indicating that unauthorised use will lead to issue of a parking infringement. Mr Gard was urged to contact the City's rangers to discuss this matter further.
- A member stated that Town Planning Scheme No. 7 depicts the subject land as being in a "Frame Area".

- The Executive Manager City Development advised that "Office" and "Parking" is an "X" (i.e., "not permitted") use in a residential area so Planning Officers consider the application should not be entertained purely on planning grounds.
- A member indicated that allowing the application to proceed may actually increase the level of safety for drivers as it will allow more space for them to manoeuvre their vehicles on-site.
- A member speaking in support of the application claimed that a significant amount of misinformation has been circulated concerning the application and this was eventually printed in local newspapers as fact.

At the conclusion of discussion, the Mayor put the motion moved Cr Major, seconded Cr Harrop to the vote and it was adopted to become a Council Decision.

Council Decision 162/08

Council, under and by virtue of the powers conferred upon it under the Planning and Development Act 2005, hereby resolves NOT to initiate an amendment to Town Planning Scheme No. 7 in respect of Lot 14 (No. 7) Garvey Place, Bunbury, that changes the zoning from "Residential" to "Mixed Business".

CARRIED

10 Votes "For" / 2 Votes "Against"

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

11.5 GLEN IRIS-MOORLANDS LOCAL AREA PLAN: FIRST STAGE OF IMPLEMENTATION (SCHEME AMENDMENTS NOS. 26 AND 29) TO RATIONALISE ZONINGS AND ESTABLISH GATEWAY COMMERCIAL PRECINCT *(WAS LISTED AS ITEM 11.2 ON THE MEETING AGENDA)*

File Ref:	A03522
Applicant/Proponent:	Internal Report
Author:	Neville Dowling, Contract Planner and Thor Farnworth, Senior Town Planner (Strategic & Environment)
Executive:	Geoff Klem, Executive Manager City Development

Summary

The third phase of stakeholder and community engagement on the Local Area Plan (or "LAP") for the neighbourhood areas of Glen Iris, Moorlands and Nenke Way was completed in March 2008.

The *Glen Iris - Moorlands Local Area Plan: Study* document represents Part 1 of the local area planning project. Subsequent parts will take the form of a Local Planning Policy, Local Structure Plans and Schedule of Scheme Amendments, which are being compiled in accordance with the local area planning process.

The *Glen Iris - Moorlands Local Area Plan: Study* is being significantly revised following the outcomes of public advertising and subsequent investigations into the flooding issue, the location of new regional roads, the gazettal of the Greater Bunbury Region Scheme (or "GBRS") and a comprehensive review of shortfalls found in the previous *Glen Iris - Moorlands Local Area Plan: Study* document.

Although the LAP has not been finalised it has been recognised that there is an expectation to commence with the implementation of the LAP as soon as practicable. To facilitate the development of the local area based upon the work done to date, certain amendments to the City of Bunbury Town Planning Scheme No. 7 (or "TPS 7") may proceed without interfering with or prejudicing the LAP process. Consequently, it is proposed that two separate scheme amendments identified by the City's Project Control Group as desirably being achieved in the short-term, can proceed to initiation.

Scheme Amendment No. 26

This is an administrative change to reflect the fact that a significant portion of Glen Iris is currently included in "Development Zone – Residential" under the Scheme but has since been substantially developed for housing.

Scheme Amendment No. 29

This Scheme Amendment will permit establishment of a Commercial Gateway Precinct, enabling the land to be developed for general commercial uses that do not normally locate within commercial centres. The proposal is for the creation of a Special Use Zone due to the absence of a 'commercial zone', that prescribes land use and development controls for built form, urban design, car parking and landscaping.

Background

At its meeting on 6 September 2005, the Bunbury City Council resolved to prepare a revised plan for the Glen Iris and Moorlands Local Area (Council Decision No. 206/05). The principal reasons for the project were as follows:

- To amalgamate and integrate the three previous Council-endorsed Structure Plans (Picton Waters, Glen Iris and Moorlands) and update the Glen Iris infrastructure cost share arrangements into one plan
- To comply with outstanding requests from the WA Planning Commission (or "WAPC") and Main Roads WA (or "MRWA") for a revised version to incorporate the intended re-alignment of the South Western Highway
- To coordinate and integrate land use development patterns, urban design elements, infrastructure improvements and transportation networks within the designated neighbourhood area.

A planning exercise was undertaken by the consultancy Hassell between October 2005 and October 2007. After review by Council's Strategic & Environmental Planning Team, the final version of Hassell's draft planning study was presented to Council in December 2007.

At its meeting on 18 December 2007 (Council Decision No. 268/07) the Council resolved as follows:

"Council notes the 'Glen Iris – Moorlands Local Area Plan: Study' and authorises its disclosure to the public for viewing and information purposes for the period concluding mid-February 2008."

The Local Area Planning Project was progressed through three phases of consultation with stakeholders and residents, seeking to identify core matters and define their vision for the Glen Iris-Moorlands local area. Extensive community engagement was carried out at the end of each milestone, with the first phases occurring in November 2005 and then again in April 2007. The final phase occurred in March 2008. Full details of the community consultation, including consultant reports and the complete schedule of submissions received during the informal comment period, will be presented to Council along with the final draft of the *Glen Iris - Moorlands Local Area Plan: Study* proposed draft *Glen Iris - Moorlands Local Area Plan: Local Planning Policy* and revised draft *Glen Iris Structure Plan*, for its consideration to formally advertise.

During the intervening period, final editing of the *Glen Iris - Moorlands Local Area Plan: Study* is being undertaken as a consequence of its extensive revision due to the implications of the following:

- The outcomes of all three phases of community engagement but with particular emphasis on the written submissions made during the third phase of engagement in March 2008.
- Further investigation into the flood management issues affecting the local area, in particular the apparent need to provide for a 1 in 500 year flood event protection for the rest of Bunbury within the Preston River Floodway.
- Direction by the WAPC, on behalf of MRWA, to provide for the reservation of land for the South Western Highway Duplication Route and the Port Access Road.
- Implications of the GBRS gazetted in November 2007.
- Implementation of Liveable Neighbourhoods (October 2007) adopted by the WAPC as a policy as part of the State Planning Framework. This will be followed in the design and assessment of structure plans and subdivision for new urban areas, on greenfield and for the redevelopment of large brownfield and urban infill sites. In general, Liveable Neighbourhoods replaces the current WAPC Development Control policies.
- A review of earlier environmental reports regarding the quality and significance of remanent vegetation and wetlands in the eastern portion of Glen Iris.
- Clarification of the Aboriginal and post colonial settlement cultural heritage values, particularly with respect to the extent of the area of influence on Aboriginal heritage sites within the vicinity of the Preston River and Glen Iris wetlands.
- Clarification of the buffer distance requirements around the DBC Abattoir and a revaluation of the appropriate land uses within the buffer area.
- Redefining of the various Local Structure Plan areas that are to be defined within the LAP study area.
- The correction of a number of shortfalls, errors and anomalies discovered in the 2007 draft of the *Glen Iris - Moorlands Local Area Plan: Study*. These shortfalls led to an extensive revision of the final draft of the document.
- Inclusion of a section relating to the presence of acid sulphate soils within the LAP study area.
- Updating of figures, mapping and plans in accordance with the above points.

Proposal

General Outline

With the finalisation of the *Glen Iris - Moorlands Local Area Plan: Study* nearing completion, it is considered that the draft Study document nevertheless provides sufficient guidance to inform the preparation of subsequent statutory planning instruments and the consideration of scheme amendment proposals that have been generated by either the City or private landowners where there are no land use conflicts, constraints or outstanding issues for resolution. As such, it has been recognised that certain scheme amendments to TPS 7 can proceed as leading implementation initiatives without interfering with or prejudicing the LAP process or desired outcomes. Consequently, it is proposed that two separate scheme amendments identified by the City's Project Control Group as desirably being achieved in the short-term, should proceed to initiation.

The identified short term amendments simply reflect the subdivision and development that exists, and which has been approved and/or is under construction. The short term amendments would apply to areas where the land will not be affected by future structure planning decisions and can be safely processed before the finalisation of the LAP and other local structure plans. Short term amendments should expect to be finalised within a one to five year timeframe, as it is unlikely that the identified issues to date are of such critical nature that would undermine the proposed land use planning solutions. These areas mainly relate to the established areas of Vittoria Heights, the area around the Shell Gateway Roadhouse, established parts of Glen Iris and established and developing parts of Picton Waters.

Leading Implementation Initiatives

Scheme Amendment No. 26 - Rationalisation of Zonings in Glen Iris

The first set of short term amendments includes Scheme Amendment No. 26 (refer to the report provided to members under separate cover) which is presented to Council for its consideration to initiate as a priority in order to facilitate the completion of residential development committed to under previous iterations of the Glen Iris Structure Plan and Picton Waters Structure Plan.

Scheme Amendment No. 26 is an administrative change to reflect the fact that a significant portion of Glen Iris is currently included in "Development Zone – Residential" under the Scheme, but which has since either been substantially developed for housing or has subdivisional approval.

Therefore, the objective of this amendment is to rationalise zonings in Glen Iris whereby land uses are rezoned or reserved to reflect their existing and/or intended purpose. An example of this are the large areas of residential land in Vittoria Heights which is zoned “Development Zone – Residential”, yet has been developed in accordance with the Residential Zone to a residential density equivalent to the R20 R-Code. Alternatively, land obtained as development contributions for public open space (roads and parkland) have also been developed as such, and require their status to be accurately reflected in the Scheme. An example of intended purpose is where the land is either being developed or soon will be developed and all the relevant approvals are in place, such as in the later stages of Picton Waters.

Scheme Amendment No. 29 – Creation of Commercial Gateway Special Use Zone

Scheme Amendment No. 29 (refer to the report circulated to members under separate cover) is to permit the establishment of a “Commercial Gateway Precinct”, which will enable the land to be developed for general commercial uses that do not normally locate within commercial centres. The proposal is for the creation of a Special Use Zone due to the absence of a ‘commercial zone’ under the Scheme, that prescribes land use and development controls for built form, urban design, car parking and landscaping.

Whilst the creation of ad hoc Special Use Zones is not generally desirable, until such time as the Scheme incorporates a standardised non-centre based commercial and mixed use type of zoning, it is proposed to create Special Use Zone No. 51 rather than including the land within the “Mixed Business Zone”. This approach has the principal benefits of:

- a) enabling more specific development controls to be applied, and;
- b) eliminating those uses that are permitted within the “Mixed Business Zone” that are undesirable in this high profile location (i.e., Light & Service Industry; Motor Vehicle, Boat or Caravan Sales, and; Trade Display).

The proposed land uses within this Precinct should therefore be complementary to but not compete with, the proposed Neighbourhood Centre at the intersection of Vittoria and Jeffrey Roads. Also, land uses that fall within the categories of industry, trade display, warehousing and sale yards will be discouraged within the Commercial Gateway Precinct.

The inclusion of a use class not listed under the Scheme has been made for “Produce Market”, which has been defined within the proposed Scheme Amendment text as: *‘The land use definition of a “Produce Market” means premises used for the storage, processing and sale (by wholesale and/or retail) of domestic fresh produce including the predominant lines of fruit, fresh and processed vegetables, and which may include the incidental sale of other items such as flowers, bread, meat, smallgoods, dairy products, bulk food goods, continental foods and fish. The use does not include a “shop” or “supermarket”, and has a maximum total floor area which does not exceed 3,000 square metres net lettable area.’*

The inclusion of a Produce Market land use within Lot 1 Vittoria Road has been made to facilitate the operation of the Bunbury Farmers Market business in response to submissions received on the draft *Glen Iris - Moorlands Local Area Plan: Study* during its informal public comment period. This site is currently occupied by Waldecks Garden Centre. The Produce Market use is primarily intended to cater for the sale of local fresh produce. Development controls in regard to allowable floor space, parking, vehicular access, built form, landscaping and visual amenity will be provided by the requirement for an approved Detailed Area Plan (or "DAP") prior to any development taking place on the site.

Future Implementation Initiatives

The ultimate adoption by Council and endorsement by the WAPC of the *Glen Iris - Moorlands Local Area Plan: Study* and related *Local Planning Policy* will still be required in order to permit finalisation of the structure plans and remaining scheme amendments. The preparation of the outstanding structure plans will be predominantly the responsibility of landowners, and will be contingent upon State agency support with respect to the timing of their final adoption by Council and endorsement by the WAPC.

Strategic and/or Regional Outcomes

The Local Area Planning Project is considered consistent with the aims and goals of Council's 2007–2012 Strategic Plan and the objectives and recommendations of the City Vision Strategy (2007).

Community Consultation

The proposed amendment will be advertised as required by the Planning and Development Act 2005. Nevertheless extensive community consultation (in three phases) has already occurred in relation to the forthcoming Local Area Plan. The two amendment proposals being the subject of this report are components of the previously advertised draft *Glen Iris – Moorlands Local Area Plan: Study* (November 2007).

In addition to the initial community engagement process, the LAP project has involved two agency workshops, agency staff interviews and over 10 meetings of the City's Project Control Group. Also, advertisements were placed in two of the local newspapers with submissions sought up until 14 February 2008 (but extended to the end of March).

A schedule of submissions (total of three) that relate to the subject land for the proposed Scheme Amendment No. 29, which was collated from the third phase of public advertising of the draft *Glen Iris – Moorlands Local Area Plan: Study* is included in the report that has been circulated to members under separate cover. Of the submissions received there were no objections relating to either proposal, with two submissions in support of the Commercial Gateway Precinct

Councillor/Officer Consultation

Along with State agency representatives, the Mayor and Councillors (two representatives) and the Executive Manager City Development were integral to the Project Control Group. Council briefing sessions on this subject took place in February and March 2006 and then again in December 2007.

The Local Area Planning Project has also extensively involved both the strategic and statutory planning staff of City Development. A site visit involving all planning staff was carried out on 19 June 2008. The site visit involved touring the areas which presented the main issues for the compilation of the LAP. These included:

- the location of the South Western Highway and Port Access Road;
- the DBC abattoir and its environs;
- the future Neighbourhood Centre and Commercial Gateway Precinct sites;
- the residential development fronts in Glen Iris
- established residential areas of Vittoria Heights;
- new residential areas under construction in Picton Waters;
- remnant bushland south of Vittoria Heights; and
- wetland areas on the fringe of the Picton Waters residential area north west of the DBC abattoir.

Analysis of Financial and Budget Implications

The present Cost-Share Arrangement for infrastructure, whilst investigated as part of the overall LAP Project, is not expected to be affected by either of the proposed Scheme Amendments 26 and 29 beyond what is presently incumbent upon the Local Government to provide.

Subject to the specification and satisfaction of the City, subdividers/developers are required to construct or contribute towards the following items at their expense as a normal condition of land subdivision and development:

- all lots with frontage to a constructed and drained subdivisional road that is connected to the local road system;
- land being filled, drained and connected to the City's storm water drainage system;
- all lots with connection to the reticulated water and waste water system;
- contribution towards shared local drainage infrastructure where required;
- contribution towards traffic calming measures (e.g. round-a-bouts);
- contribution towards dual-use paths and footpaths.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The creation of additional residential and commercial land use activities, where in accordance with the draft LAP, can reasonably be expected to promote a positive net economic outcome for the local area and the City. This expectation is based upon the increased investment and provision of local employment opportunities concomitant to the resulting population growth.

Social Issues

The further development of Glen Iris, where in accordance with the LAP, can reasonably be expected to have a neutral or positive social outcome for the local community as it relates to the amenity and liveability of the local area. It must be noted that the provision of certain community oriented services and infrastructure (i.e. in relation to recreation, transport, education and health) are largely beyond the scope of the LAP and the responsibility/resources of the Local Government; and as such, are dependant upon both public and private sector investment locally and regionally to support the resulting population growth.

Environmental Issues

There are no environmental issues relating to the proposed scheme amendments.

Heritage Issues

There are no heritage issues relating to the proposed scheme amendments.

Legislative and Council Policy Compliance

Proposals to amend a Local Planning Scheme are required to be undertaken in accordance with the Planning and Development Act 2005 and the Town Planning Regulations 1967. The proposed Scheme Amendments 26 and 29, should they be initiated by Council, will be referred to the Environmental Protection Authority (or "EPA") for environmental review and consideration during any formal public advertising period.

Delegation of Authority

There is no relevant delegation of authority in respect of these proposals.

Relevant Precedents

The integrated local area planning approach is a nationally accepted practice for neighbourhood and suburb scale planning exercises like the Glen Iris - Moorlands project, and as such, the methodology behind the project is detailed in the Australian Local Government Association's *A Guide to Integrated Local Area Planning, Australian Local Government Association (1993)*.

The statutory components of the project include the proposed local structure plans and scheme amendments, which are regulated under the heads of power conferred by the City of Bunbury Town Planning Scheme No. 7 and the Planning and Development Act 2005.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council to withhold initiation of Scheme Amendments Nos. 26 and 29 to the City of Bunbury Town Planning Scheme No. 7 until such time as it has adopted the forthcoming *Glen Iris - Moorlands Local Area Plan: Local Planning Policy* and the *Glen Iris Structure Plan*.

Conclusion

Major regional issues outside the control of the City of Bunbury's administration and hence, the scope of the LAP project, have been a persistent barrier to finalisation of structure planning for the Glen Iris - Moorlands local area. These issues include but are not limited to:

- the filling of land within the Preston River Floodplain and the future of the Glen Iris Relief Floodway (Department for Planning and Infrastructure and Department of Water);
- the proposed South Western Highway duplication in Picton (Department for Planning and Infrastructure and Main Roads Western Australia);
- the proposed grade separation of the Eelup Rotary (Department for Planning and Infrastructure and Main Roads Western Australia) and implications for Robertson Drive, Australind Bypass (in particular the Preston River Bridge);
- the implications of the Bunbury Port's expansion in line with the draft Inner Harbour Structure Plan (Department for Planning and Infrastructure, Main Roads Western Australia and Department of Environment and Conservation).

Scheme Amendments 26 and 29 are not deleteriously affected by the abovementioned issues, and are therefore not considered to present any significant risks. Consequently, it is considered prudent to initiate the amendments to the Scheme in order to enable the remaining residential areas and the Commercial Gateway Precinct to proceed to completion in the short term.

Recommendation

1. Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 26 to the City of Bunbury Town Planning Scheme No. 7.
2. Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 29 to the City of Bunbury Town Planning Scheme No. 7.

Outcome of the Council Committee Meeting - 2 September 2008

Members of the public were invited to speak in relation to this issue.

Mr Stuart Thompson, TME (representing the Farmers' Market) indicated that his client strongly supports the proposal for the Gateway Commercial Precinct in Glen Iris as it has encountered many problems finding premises in Bunbury that meet the requirements of the City's Town Planning Scheme. The Farmers' Market intends to establish a fruit and vegetable market in the new precinct.

Glen Iris land owner, Mr Ralph Sherwood, declined the opportunity to speak.

Committee members questioned the Executive Manager of City Development on various matters contained within the documentation provided, following which the recommendation (as printed) was moved Cr Slater, seconded Cr Major and adopted to become the Committee's recommendation on this issue 13 votes "for" to nil votes "against".

Committee Recommendation

1. Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 26 to the City of Bunbury Town Planning Scheme No. 7.
2. Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 29 to the City of Bunbury Town Planning Scheme No. 7.

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Jones, seconded Cr Major. The following points were raised during discussion:

- A Member stated a concern that three of the lots the subject of Town Planning Scheme Amendment No. 29, appear to be quite large. If this area is developed to include the types of businesses allowed on pages 11 and 12 of the proposed Scheme text; the resulting commercial precinct could rival the CBD. Thus, it might be advisable to restrict the commercial precinct to car sales and showrooms.

- The Mayor advised that the Scheme Text contains a list of business types that can be incorporated into development of a commercial precinct in the Scheme area. However, it will be up to the developer as to what mix of businesses they would like to incorporate in any development of the site.
- Flood risks associated with the Preston River have been analysed and addressed during the Scheme Amendment process.

The Mayor put the motion moved Cr Jones, seconded Cr Major to the vote and it was adopted to become a Council Decision.

Council Decision 163/08

1. *Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 26 to the City of Bunbury Town Planning Scheme No. 7.*
2. *Pursuant to section 75 of the Planning and Development Act 2005, the Bunbury City Council resolves to initiate Scheme Amendment No. 29 to the City of Bunbury Town Planning Scheme No. 7.*

CARRIED

11 Votes "For" / 1 Vote "Against"

Cr Steck requested that her vote "against" the Council's decision, be recorded.

11.6 PROPOSED APPOINTMENT TO CITY PROMOTIONS COMMITTEE *(WAS LISTED AS ITEM 11.3 ON THE MEETING AGENDA)*

File Ref:	A03402
Applicant/Proponent:	Internal Report
Author:	Michael Fraser, Events Officer
Executive:	Domenic Marzano, Executive Manager City Life

Summary

It is proposed to appoint Sonya Dye as a 'Community Representative' on the City Promotions Committee. An extract from the City's Committee Book showing the committee's Terms of Reference is **attached** at Appendix 6.

Background

The City Promotions Committee was appointed by the Council on 27 November 2007 to provide guidance and recommendations to assist the Council in discharging its duties. Membership of the committee is currently:

Committee Members (voting):

- Deputy Mayor – Councillor Stephen Craddock
- Councillor Michelle Steck
- Councillor Noel Whittle
- Greg Trevaskis, City of Bunbury CEO
- Dom Marzano, Executive Manager City Life
- Jo O’dea - Community Representative

Ex-officio Members (non-voting):

- City of Bunbury Marketing Officer
- Bunbury Visitor Centre Coordinator
- Bunbury Chamber of Commerce & Industries CEO
- Bunbury Regional Entertainment Centre

The committee members are supported by the following City Life staff members: Jackie Massey, Manager Economic & Social Development; Michael Fraser, Events Officer, and; Del Ambrosius, Communications Officer.

Ms Dye has been considered to join the committee as she will bring an extensive range of experience to the committee.

Strategic and/or Regional Outcomes

The City's Strategic Plan 2007-2012 states that the City's vision is: *"To enhance our community's pride in our City by demonstrating the pursuit of excellence by our leadership, advocacy, service delivery and facilities."*

The Strategic Plan is based around six objectives - two of these are relevant to the recommendation in this report, they are:

1. Strengthen the City of Bunbury's governance and leadership
2. Develop social capital - having community representatives on council committees helps those committees derive a broader insight into public sentiment concerning the activities of the Council.

Community Consultation

No community consultation has been undertaken concerning this proposal

Councillor/Officer Consultation

The members of the City Promotions Committee unanimously support the nomination

Analysis of Financial and Budget Implications

The activities and objectives of advisory committees or project control groups correlate with the City's annual budget, annual programme of works or the City Vision Strategy and are resourced accordingly.

Economic, Social, Environmental and Heritage Issues

There are no Economic, Social, Environmental or Heritage Issues associated with this proposal as this is a nomination for appointment to an existing committee of the Council.

Council Policy Compliance

The "Terms of Reference" for advisory committees or project control groups appointed by the Council do not contravene established Council policies.

Policy CEO7 (adopted by Council on 27 November 2007) sets out guidelines for establishment and operation of advisory committees.

Legislative Compliance

Section 5.9(2) of the Local Government Act 1995 indicates that an advisory committee of the Council may comprise council members only, officers only, community members only or a combination of any of these.

Appointments to a committee of the Council (or any amendment to its terms of reference) must be by an absolute majority vote.

Tenure of committee membership is specified in Section 5.11 of the Local Government Act 1995.

Delegation of Authority

Not applicable - the Chief Executive Officer has not been delegated the authority to appoint members to committees of council.

Relevant Precedents

The Council regularly appoints members to (or updates membership of) its various committees.

Options

Option 1

Per the recommendation as listed in this report.

Option 2

Per the recommendation listed in this report (with amendments as stated by members at the meeting)

Option 3

Sonya Dye not be appointed to the City Promotions Committee.

Recommendation

Ms Sonya Dye be appointed as a 'Community Representative' on the City Promotions Committee - tenure of membership to expire on Council Election Day in October 2009 in accordance with Section 5.11 of the Local Government Act 1995.

Outcome of the Council Committee Meeting - 2 September 2008

The Executive Manager of City Life advised as follows:

- The report and recommendation incorrectly refers to Ms Dye's appointment as a community representative when in fact, she will be appointed to the committee as an 'ex-officio' member (no voting rights) similar to the marketing and promotional heads of other facilities i.e., Bunbury Visitor Centre, BCCI and Bunbury Regional Entertainment Centre.
- It was confirmed that the Bunbury Regional Art Galleries complex is being invited to join as it often holds events in tandem with the City or as part of other events or festivals in the region in which the City's marketing officers are involved.

The recommendation as printed and amended to remove reference to 'Community Representative', was moved Cr Slater, seconded Cr Craddock and adopted to become the Committee's recommendation on this issue 12 votes "for to nil votes "against". (Note: Cr Major had left the meeting during debate of the item and was absent for the vote)

Committee Recommendation

Ms Sonya Dye be appointed as an 'Ex-officio Member' representing the Bunbury Regional Art Galleries Complex on the City Promotions Committee (no voting rights) - tenure of membership to expire on Council Election Day in October 2009 in accordance with Section 5.11 of the Local Government Act 1995.

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Major, seconded Cr Craddock. It was put to the vote and adopted to become a Council Decision.

Council Decision 164/08

Ms Sonya Dye be appointed as an 'Ex-officio Member' representing the Bunbury Regional Art Galleries Complex on the City Promotions Committee (no voting rights) - tenure of membership to expire on Council Election Day in October 2009 in accordance with Section 5.11 of the Local Government Act 1995.

CARRIED

12 Votes "For" / Nil Votes "Against"
Absolute Majority Vote Attained

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

12.1 MOTION ON NOTICE - COMMUNITY CONSULTATION REQUIREMENTS FOR REZONING APPLICATIONS

File Ref:	A00398
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>If adopted refer to:</i> Geoff Klem, Executive Manager City Development

Cr Steck has submitted the following motion for consideration at the Council Meeting:

"The following process to be followed for all re-zoning applications to be considered by the Council:

- 1. Applications to automatically be sent to the Community Consultation Committee not less than 14 days prior to the matter coming before Council.*
- 2. The Community Consultation Committee is to contact all relevant land owners seeking comment before the matter is presented to a meeting of the Council.*
- 3. All land owners relevant to the re-zoning must be notified within a minimum time period of 24 hours. "*

Comments - Cr Steck

In support of her motion, Cr Steck states that: *"All too often land owners feel that they are being mistreated by the Council. On many occasions these planning matters escalate into contentious issues when, with prior consultation, the matter could have been resolved quickly without much frustration or mistrust between the proponents and the residents/land owners - the Council would then be seen to be taking a proactive role."*

Executive Comments

The Council does not have a Community Consultation Committee (now or ever).

Executive Management has recently discussed the possibility of introducing protocols for consultation with affected parties concerning proposals that could lead to a rezoning "initiation" prior to the Council's formal consideration of such rezoning. However, Council's planning officers have expressed some caution on introducing a policy for consultation without first conducting investigation from a statutory and legal perspective. Officers are currently investigating the matter and would strongly oppose the introduction of a policy (as proposed by Cr Steck) in the absence of further technical and legal research. As Cr Steck's *Notice of Motion* was not received until immediately prior to release of the agenda on 4 September 2008, officers have not had the opportunity to properly formulate a recommendation on the subject. Hence, the following action is recommended:

Recommendation

Council officers be instructed to prepare a report on the possible introduction of a policy for publicly advertising and/or consulting with affected parties concerning proposals to rezone property, prior to the Council being required to initiate a rezoning process.

AT THE COUNCIL MEETING

Cr Steck's *Motion on Notice* was moved Cr Steck, seconded Cr Slater. After some discussion, the mover and seconder agreed to amend the motion to read:

"1. Council establish a Community Consultation Committee with Terms of Reference that include the following process to be followed for all re-zoning applications to be considered by the Council:

1.1 Applications to automatically be sent to the Community Consultation Committee not less than 14 days prior to the matter coming before Council.

1.2 The Community Consultation Committee is to contact all relevant land owners seeking comment before the matter is presented to a meeting of the Council.

1.3 All land owners relevant to the re-zoning must be notified within a minimum time period of 24 hours.

2. Membership of the Community Consultation Committee to comprise:

2.1 Cr _____
Cr _____

2.2 Officers (to be determined)"

The following points were raised during discussion:

- The Chief Executive Officer indicated that it might be premature to establish a committee (or any policies) when investigation into how such a committee might interact in the statutory public consultation process associated with planning applications, has not been investigated.
- The Executive Manager of City Development stated that many planning applications are handled using delegated authority permitted under legislation (this includes public consultation) and are not required to be submitted to the Council for consideration. Similarly, many applications are dealt with on a purely statutory basis and do not require advertising or public consultation. Planning Officers would like the opportunity to consult with the Department for Local Government, the Minister and other local governments in relation to Cr Steck's proposal, as there may be other models for public consultation available that could be amended to suit the needs of the City which would resolve some of the difficulties that have arisen recently.

- Cr Steck indicated that the committee need not necessarily have any involvement in the statutory requirements for dealing with a planning application. It could be public consultation over and above what is required by law. All the committee would be doing is making the public aware of any planning matters that are going to be brought before the Council and which might be of interest to residents.
- Cr Craddock foreshadowed that he would move the officer's recommendation (printed in the meeting agenda) should Cr Steck's motion be defeated.

Following discussion, the Mayor put the motion to the vote and it was defeated 2 votes "for" to 10 votes "against".

Cr Craddock moved his foreshadowed motion (with amendment) as follows. The motion was seconded by Cr Major:

- "1. Council officers be instructed to prepare a report on the possible introduction of a policy for publicly advertising and/or consulting with affected parties concerning proposals to rezone property, prior to the Council being required to initiate a rezoning process.*
- 2. The report to be presented for consideration by members of Council no later than the first Council Committee Meeting in 2009."*

Following some discussion on the capability of officers to complete the report by the deadline with respect to current workloads, the Mayor put the motion moved Cr Craddock, seconded Cr Major to the vote and it was adopted to become a Council Decision.

Council Decision 165/08

- 1. Council officers be instructed to prepare a report on the possible introduction of a policy for publicly advertising and/or consulting with affected parties concerning proposals to rezone property, prior to the Council being required to initiate a rezoning process.*
- 2. The report to be presented for consideration by members of Council no later than the first Council Committee Meeting in 2009.*

CARRIED

12 Votes "For" / Nil Votes "Against"

NOTE: At this point in proceedings, councillors considered items 9.2, 9.3 and 9.4 of these minutes.

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

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**

Cr Jones moved, Cr Craddock seconded the following motion which was put to the vote and adopted to become a Council decision:

Council Decision 166/08

Pursuant to Standing Order 15.10 and as permitted under the Local Government Act 1995, the meeting exclude members of the public to permit Confidential Business to be discussed.

CARRIED

12 Votes "For" / Nil Votes "Against"

At 8.50pm, the Mayor requested all members of the public, press and staff members (including the Chief Executive Officer) to leave the meeting room.

In the absence of a minute taker, the Mayor would record the outcome of discussion and any decisions made.

15.1 ANNUAL PERFORMANCE APPRAISAL - CHIEF EXECUTIVE OFFICER

File Ref:	A01984
Applicant/Proponent:	CEO Annual Performance Review Panel
Author:	Councillor Stephen Craddock (Chairman) - CEO Annual Performance Review Panel
Executive:	Greg Trevaskis, Chief Executive Officer

The CEO Annual Performance Review Panel has finalised its report to Council in relation to the annual performance appraisal for the Chief Executive Officer - refer to the Confidential Report that has been circulated to Council Members under separate cover.

Recommendation

1. The report titled *"2007/08 Performance and Development Review"* and dated 2 September 2008 prepared by Council's CEO Performance Review Committee, be accepted.
2. The recommendations contained within the report titled *"2007/08 Performance and Development Review"* with respect to the 2008/09 performance criteria for the Chief Executive Officer and proposed 2008/09 salary package, be approved.

AT THE COUNCIL MEETING

The Committee's recommendation was moved Cr Craddock, seconded Cr Whittle. It was put to the vote and adopted to become a Council Decision.

Council Decision 167/08

1. *The report titled "2007/08 Performance and Development Review" and dated 2 September 2008 prepared by Council's CEO Performance Review Committee, be accepted.*
2. *The recommendations contained within the report titled "2007/08 Performance and Development Review" with respect to the 2008/09 performance criteria for the Chief Executive Officer and proposed 2008/09 salary package, be approved.*

CARRIED

11 Votes "For" / 1 Vote "Against"

Cr Jones moved, Cr Craddock seconded the following motion which was put to the vote and adopted to become a Council decision:

Council Decision 168/08

As confidential business has concluded, the Council Meeting re-open to members of the public.

CARRIED

12 Votes "For" / Nil Votes "Against"

16. CLOSE OF MEETING

The Mayor declared the meeting closed at 9.25pm.

CONFIRMED this day 30 September 2008 to be a true and correct record of proceedings of the Bunbury City Council Meeting held 9 September 2008.

MR DAVID SMITH
MAYOR