



## **Bunbury City Council**

### **Minutes 9 February 2010**



**City of Bunbury**  
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Western Australia

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## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
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
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council

## GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
Residential R15	Town Planning Zone – up to 15 residential dwellings per hectare
Residential R20	Town Planning Zone – up to 20 residential dwellings per hectare
Residential R40	Town Planning Zone – up to 40 residential dwellings per hectare
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

## Bunbury City Council

Minutes of an Ordinary Meeting of the Council (Standing) Committee held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 9 February 2010.

### Minutes

9 February 2010

**NOTE:** These minutes are subject to confirmation at the next Ordinary meeting of the Council 2 March 2010.

#### 1. Declaration of Opening by the Mayor

His Worship the Mayor, Mr David Smith, declared the meeting open at 6.00pm

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

*PRESENT*

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor B Kelly
Members:	Councillor J Jones
	Councillor <del>S Craddock</del> W Major
	Councillor <del>W Major</del> H Punch
	Councillor N Whittle
	Councillor <del>N Whittle</del> R Slater
	Councillor <del>R Slater</del> M Steck
	Councillor <del>M Steck</del> A Leigh
	Councillor D Spencer <del>J Harrop</del>
	Councillor <del>J Harrop</del> <del>D Spencer</del>
	Councillor <del>D Spencer</del> K Steele
<del>Councillor K Steele</del>	
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
<b>Council Officers (Non-Voting):</b>	
<u>Manager Environmental Health</u>	<u>Ms S Upton</u>
Admin. Officer Corporate Services:	Ms N Hribar
<b>Others (Non-Voting):</b>	
Members of the Public:	<u>23</u> (approx.)
Members of the Press:	<u>1</u>

**APOLOGIES:**

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Cr Craddock on leave of absence from 1 February to 19 April 2010.

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### 3. Responses to Public Questions Taken 'On Notice' at the Previous Council Meeting

Nil

### 4. Public Question Time

In accordance with Reg. 7(4)(a) of the Local Government (Administration) Regulations 1996, members of the public in attendance at the meeting may stand, state aloud their name and address, and ask a question in relation to any matter over which the municipality of Bunbury has jurisdiction or involvement.

#### **David Edwards, Manager Solaris Care Foundation**

*Question: Just for clarification, is my understanding correct in that the application before you is a Change of Use application and not a Rezoning application?*

*Response: Executive Manager City Development responded: Yes, it is a Change of Use application and not a Rezoning.*

#### **Brian Fagan, Vice-Chairperson Bunbury Turf Club, Landowner 29 Barr Road, Bunbury**

*Question: Why haven't the Turf Club or the Trotting Club been notified or asked for a submission regarding the Change of Use for 72 Brittain Road, Bunbury?*

*Has the landowners been notified of the Change of Use?*



*Has Council taken into consideration that the Change of Use changes the whole fabric of the area?*

*Has the Council taken into consideration or looked at the stable complex in Ascot which has been going for a quite a while and has precedents in regards to traffic readiness and safety and so on?*

*Response:* Executive Manager City Development responded: this matter was advertised as per the requirements of our scheme. An advertisement was placed in the newspaper, adjoining neighbours owners notified and a sign placed on the site. Quite often we do more than is required to do in relation to a Change of Use or Rezoning. We certainly would have complied with the scheme in relation to the requirements for the advertising of the proposal. The fact is we did get submission so obviously people have read that this Change of Use was being contemplated.

As to the second question, there are three (3) options for the City in terms of how it advertises a proposal such as this of which we only have to do one. That includes notifying the neighbours, putting an advert in the paper and putting a sign on the site. We generally do at least two or three of those things.

As to the effect on the amenity of the stable area. The report that we submitted is comprehensive in the way it puts forward the planning issues. We believed that it was a marginal situation in relation to changing the use. Certainly there are arguments against any use which is potentially not consistent with the horse stable or R5 area. However on balance because of the nature of this particular use, the fact that it wasn't generating a nuisance and unlikely to create a problem for neighbouring uses, we felt that it did add value to the community in terms of the service that it provided. It is not unusual for the City to have discretionary uses in the various zones throughout the City to accommodate Community Purpose type uses. So on balance we felt that this was adding value to the community, but by no means was it clear cut because if you read the report, there were a range of issues that we did raise in relation to this application. That was our rationale for doing it and it was not meant to be seen as a precedent. If there was another use other than a Community Purpose we would probably not have supported it.

**Arpad Mecshelyi, 6 Sampson Road Bunbury**

*Question: When are the plans/drawings for the Cathedral precinct going to be available to the public for inspection?*

*Is the planning approval coming back to Council or has it got blanket approval?*

*Have I been treated with according to the instruments of Local Government appropriately?*

*Response:* Executive Manager City Development responded: last week you submitted a page with four questions on it and we dealt with the first. We have taken on board questions 2, 3 and 4 and have answers to those and that includes previous correspondence that we sent in relation to previous questions that you raised and also the questions that you submitted at the Annual Electors Meeting. There was a response written to your questions at the Annual Electors meeting, but we were given to understand that you were not proceeding with those questions. You are welcome to the answers that were generated at the time and I have the answers to the questions that you raised and we will be happy to go through those with you.

**David Jones, InSitu Planning and Design, Charles Street Bunbury**

*Question:* *It is my understanding that if the change of use goes through and that Use lapses then it would revert back to the original R5 use would it not?*

*Is Council staff aware that the property has been on the market for eight (8) to nine (9) months with no offers from anyone in the racing industry?*

*Response:* Executive Manager City Development responded: In relation to the first question, that is correct, if the use lapsed then it will revert back to the original use, in this case the R5 designation. In relation to the second question, it is not a planning consideration and therefore not relevant to us in our planning assessment.

**5. Questions on Notice from Council Members (No Discussion Permitted)**

Nil

## 6. Confirmation of Previous Minutes

The minutes of the Council Meeting held 15 December 2009, have been circulated.

### Recommendation

The minutes of the Council Meeting held 15 December 2009, be confirmed as a true and accurate record.

### Outcome - Council Meeting 9 February 2010

The recommendation from the Council Standing Committee was moved Cr Major, seconded Cr Leigh.

#### Council Decision 1/10

*The minutes of the Council Meeting held 15 December 2009, be confirmed as a true and accurate record.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

## 7. Disclosures of Interest Under the Local Government Act 1995

Deputy Mayor Cr Kelly disclosed a proximity/impartiality interest in the item titled *Proposed Change of Use from 'Consulting Rooms' to 'Medical Centre' - Lot 22 (No. 12) Prosser Street, South Bunbury* as he owns a property approximately 50 meters away and the proponent is a friend. He will not vote on the issue and will leave the chambers during discussion.

Cr Punch disclosed an impartiality interest in the item titled *Proposed Change of Use From "Residential R5" to "Community Purpose", 72 Brittain Road*. She has elected to stay and take part in the discussion and vote on the issue.

## **8. Announcements by the Mayor (No Discussion Permitted)**

Today was a general assembly of the Local Governments of Western Australia held at Ascot. The major topics of discussion were Amalgamation and the issue of the deferment of Royalties for the Regions for Local Government by Brendan Grylls.

## **9. Chief Executive Officer Reports/Discussion Topics**

Nil

## **10. Reception of Formal Petitions and Memorials**

Nil

## **11. Reception of Reports and Recommendations from the Council (Standing) Committee Meeting held 2 February 2010**

Pursuant to Standing Order 16.1.1, the Council adopted 'en bloc' (i.e. without discussion) those recommendations listed for items 11.1, 11.2, 11.3, 11.4, 11.5, 11.9, 11.11, 11.13, 11.14, 11.15, 11.16, 11.18, 11.19 and 11.21 of the meeting agenda.

Items 11.6, 11.7, 11.8, 11.10, 11.12, 11.17 and 11.20 of the meeting agenda was discussed and voted on separately.

Please note that the items listed in this section of the meeting minutes have been rearranged (and re-numbered) so that they appear in the order that they were discussed at the meeting. The items voted on 'en bloc' are listed first.

**11.1 Request for Leave of Absence – Councillor Craddock** *(was listed as Item 11.1 on the meeting agenda)*

<b>File Ref:</b>	A00215
<b>Applicant/Proponent:</b>	Councillor Craddock
<b>Author:</b>	Greg Trevaskis, Chief Executive Officer
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer

**Summary/Background**

Councillor Craddock requests leave of absence from all Council-related business from 1 February 2010 to 19 April 2010 inclusive.

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 Craddock is granted leave of absence from all Council-related business from 1 February 2010 to 19 April 2010 inclusive.

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Slater, seconded Cr Leigh.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

*Committee Recommendation*

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Craddock is granted leave of absence from all Council-related business from 1 February 2010 to 19 April 2010 inclusive.

**Outcome - Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter.

*(Full Council Decision shown over leaf)*

**Council Decision 2/10**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Craddock is granted leave of absence from all Council-related business from 1 February 2010 to 19 April 2010 inclusive.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.2 Request for Leave of Absence – Councillor Punch** *(was listed as item 11.2 on the meeting agenda)*

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

**Summary/Background**

Councillor Punch requests leave of absence from all Council-related business from 25 January 2010 to 22 February 2010.

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 Punch is granted leave of absence from all Council-related business from 25 January 2010 to 22 February 2010.

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Slater, seconded Cr Major.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

*Committee Recommendation*

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Punch is granted leave of absence from all Council-related business from 25 January 2010 to 22 February 2010.

**Outcome - Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter.

**Council Decision 3/10**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Punch is granted leave of absence from all Council-related business from 25 January 2010 to 22 February 2010.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.3 Request for Leave of Absence – His Worship the Mayor, David Smith** *(was listed as item 11.3 on the meeting agenda)*

<b>File Ref:</b>	A00215
<b>Applicant/Proponent:</b>	His Worship the Mayor, David Smith
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary/Background**

His Worship the Mayor requests leave of absence from all Council-related business on Friday 5 March to 12 March 2010 (inclusive).

The purpose of the Leave is to attend the Australian Water Conference being held 8 to 11 March 2010.

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.

**Analysis of Financial and Budget Implications**

There are no financial or budget implications to the City for attendance at the conference.

**Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, His Worship the Mayor, David Smith is granted leave of absence from all Council-related business from 5 March to 12 March 2010 (inclusive).

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Leigh, seconded Cr Major.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, His Worship the Mayor, David Smith is granted leave of absence from all Council-related business from 5 March to 12 March 2010 (inclusive).

**Outcome - Council Meeting**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter.



**Council Decision 4/10**

*Pursuant to Section 2.25 of the Local Government Act 1995, His Worship the Mayor, David Smith is granted leave of absence from all Council-related business from 5 March to 12 March 2010 (inclusive).*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.4 Request for Leave of Absence – Councillor Harrop** (was listed as item 11.4 on the meeting agenda)

<b>File Ref:</b>	A00215
<b>Applicant/Proponent:</b>	Councillor Juliet Harrop
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary/Background**

Councillor requests leave of absence from all Council-related business on Saturday 27 February to 14 March 2010 (inclusive).

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.

**Analysis of Financial and Budget Implications**

There are no financial or budget implications to the City for attendance at the conference.

**Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Harrop is granted leave of absence from all Council-related business from 27 February to 14 March 2010 (inclusive).

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Cr Steck.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Harrop is granted leave of absence from all Council-related business from 27 February to 14 March 2010 (inclusive).

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 5/10**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Harrop is granted leave of absence from all Council-related business from 27 February to 14 March 2010 (inclusive).*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.5 Food Act – Notification/Registration, Fees and Authorisation/Delegation** *(was listed as item 11.5 on the meeting agenda)*

<b>File Ref:</b>	A03953
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Sarah Upton, Manager Health
<b>Executive:</b>	Geoff Klem, Executive Manager City Development Services

**Summary**

The Food Act 2008 received assent in July 2008 by the West Australian Parliament with the subsidiary legislation being proclaimed on 23 October 2009. The introduction of the Act and regulations represent a significant shift in the direction of food safety legislation in Western Australia. All local governments in Western Australia are now responsible for implementing this new legislative framework.

The new legislation provides for a nationally consistent approach for businesses and will replace the current prescriptive regime with a framework focused on food safety outcomes that can be generally applied to all food business activities.

The implementation of the legislation requires a number of significant changes to the licensing and fee arrangements, monitoring/inspection arrangements, appointments of authorised officers and delegations. This report addresses the administrative and statutory changes required by the City to apply the legislation.

**Background**

Notification/Registration and Fees

The Food Act 2008 was passed by the state parliament in July 2008. Its subsidiary legislation, the Food Regulations 2009, were gazetted on 23 October 2009. The introduction of the Act requires a significant shift in the regulation of food safety within Western Australia. The current prescriptive regime will be replaced by a regulatory framework focused on food safety outcomes that can be applied to all food business related activities. This legislation will replace the current food provisions in the Health Act 1911, the Health (Food Hygiene) Regulations 1993 and the Health (Meat Hygiene) Regulations 2001.

With the introduction of the Food Act 2008 the City of Bunbury Health (Eating House) local laws 2000 have no head of power under the Health Act 1911 and have been repealed. This means that the existing Eating House licensing and registration arrangements no longer apply. The City currently inspects approximately 270 food premises for compliance with food safety legislation. Of these premises, 145 (54%) are licensed and registered under the City's eating house local laws. The annual fee applicable to eating houses is \$344 which consists of a \$290 premises registration fee and a proprietor's licence fee of \$54.

For the purposes of the legislation, local governments will become the "enforcement agencies " and will be required to register and undertake food safety assessments of food businesses based on their risk rating. The focus will no longer be on inspection

of the premises for compliance with prescriptive regulations but rather assisting food businesses achieve positive food safety outcomes based on risk and considers;

- The types of food produced
- Level of handling and processes undertaken
- Size of the business
- Whether the business serves 'at risk' groups
- Whether the business serves food off site (e.g. caterers)

As an enforcement agency, the local government has the responsibility to determine the risk presented by the food business within its jurisdiction and to develop a properly resourced assessment program to manage that risk. A risk matrix will be used to determine the risk of the food business. A high risk business would include premises such as nursing homes, child care centres and restaurants serving ready to eat seafood. A medium risk rated business would include takeaways, butchers, supermarkets and food manufacturers, while a low risk rated business would include liquor stores, fruit & vegetables shops, confectionary shops etc. Under the regulations, a very low risk rated business such as a newsagent, chemist or video shop selling packaged food only, would be exempt from registration but would be required still to notify the enforcement agency allowing details of the business to be collected and assist in the recall of food if required.

Classifying food businesses according to risk, allows the enforcement agency to prioritise the food safety program so that a higher risk rated business receives greater attention. The development of the fees and charges schedule should be directly linked to the risk profiling.

The Food Act 2008 applies to all businesses that are involved in the sale of food in Western Australia. The definition of 'sale' under the Food Act 2008 includes such activities as;

- Offering of food as a prize or reward;
- The giving away of food for the purpose of advertisement;
- The supply of food as a meal to employees at the place of work in accordance with employment arrangements;
- The supply of food under a contract together with accommodation, service or entertainment; and
- Barter, offer or attempt to sell.

This above definition results in a greater variety of food businesses being captured by the Food Act 2008. Licensing and annual fees can now be applied to all food businesses rather than the previous system that only permits fees to be charged for eating houses selling "meals" directly to the public. Until now, premises such as supermarkets, butchers, food manufacturers etc have never been subjected to paying fees even though Council's Environmental Health Officers are required by the Department of Health (WA) to regularly inspect and monitor these premises.

The Food Act 2008 allows the local government to impose and recover fees under the *Local Government Act 1995 Part 6 Division 5 Subdivision 2* for functions such as:

- Notification (section 107 of the Act)
- Registration (section 110 and 112 of the Act)
- Any function performed under the Act (section 140(1) of the Act)
- Provision of information or for carrying out any inspection (section 140 (2) of the Act)

Sections 107 - 110 of the Food Act 2008 regulate the requirements for the notification and registration of all food businesses, from food manufacturers to newsagencies, operating within the municipality. Food businesses are required to either notify or be registered, but not both. Notification and registration are to be accompanied by a fee if prescribed. It is an offence for a food business not to notify or register with the enforcement agency. The City is currently working with existing premises and new premises that will be defined as food businesses under the Food Act 2008, to satisfy these requirements.

Under section 10(1) of the Food Regulations 2009, a food business may be an 'exempted food business' for the purpose of Section 109 of the Food Act 2008 in relation to the requirement for the food business to be registered. An 'exempted food business' must meet the following criteria:

1. The food business is conducted to raise money solely for community or charitable purposes; and
2. Any food handled in the course of conducting the food business is not potentially hazardous or, after being appropriately cooked, is provided by the food business for immediate consumption.

Section 10 of the Food Regulations 2009 therefore permits activities such as sporting club sausage sizzles, some fundraising activities and the like, to be exempt from the requirement to register and pay registration fees. The exempted food business would still need to notify the City of its activities, however, would be exempt under section 10(2) of the Food Regulations 2009 from having to pay a notification fee.

The above definition of an 'exempted food business' does not capture the food handling activities of all community and charitable groups. It is recognised that these groups contribute significantly to the community and should not be financially burdened by the new requirements. Therefore, it is proposed that the Manager Environmental Health Services be given the authority to waive the registration, notification and assessment fees for charitable and community groups in accordance with a Council Work Procedure that will be developed in consultation with the Executive Management Team. These groups would still be required to notify the City of its activities and comply with the other requirements of the Act to ensure satisfactory food safety outcomes.

The Department of Health (WA) and other metropolitan councils have adopted a notification fee of \$50 and a registration fee of \$140. As many premises that will be now required to notify or register with the enforcement agency have never paid fees previously, it is recommended that the once-off notification fee be set at \$30 and the once-off registration fee be set at \$100 so as not to be too onerous on the business. These fees will cover the City's administration costs.

Existing eating houses that are already licensed and registered with the City until 30 June 2010, will be required to pay the registration fee and the assessment fee from the 1 July 2010. Any food businesses who has commenced operation after the 23 October 2009 will be required to pay the notification or registration fee from 1 April 2010, and the assessment fee (if applicable) in the 2010-2011 financial year.

The City has commenced risk rating existing food businesses and changing the inspection regimes of premises accordingly. It is proposed that the following annual assessment fee be implemented from 1 April 2010. It is intended that a very low risk rated food businesses will not be charged an assessment fee.

<b>Risk Rating</b>	<b>Assessment Frequency</b>	<b>Assessment Fee</b>
High Risk	3 times per year	\$250
Medium Risk	2 times per year	\$200
Low Risk	once per year	\$100
Very Low Risk	1 time per 18 months	Nil

It is also recommended that the City introduce a food business settlement enquiry fee of \$50 to bring the City in line with other local authorities and to recoup the cost of this settlement enquires on Council Environmental Health officer's time as the enquiries require a specific onsite assessment and correspondence to be issued.

Section 6.16 of the Local Government Act 1995, allows a local government to impose fees and charges for services it provides. It also allows for fees and charges to be imposed during a financial year subject to an 'absolute majority' being achieved. Furthermore, the Local Government Act requires that if fees and charges are imposed after the annual budget has been adopted, the local government must, before introducing the fees and charges, give the local public notice of its intention to do so and the date from which the proposed fees and charges will be imposed.

#### Authorisation/Delegation

With the repeal of the previous food legislation and the introduction of the Food Act 2008, Environmental Health Officers will need to be authorised to enforce the requirements of the Food Act 2008 and Food Regulations 2009.

Section 122 of the Food Act 2008 allows an enforcement agency to appoint a person to be an 'authorised officer' for the purposes of the Act, if it considers that the officer has the appropriate qualifications and experience to perform the functions of an 'Authorised Officer' or the person has been appointed as an Environmental Health Officer under the Health Act 1911.

Section 123 of the Food Act 2008 requires the enforcement agency to provide each authorised officer with a certificate of authority which must state that it is issued under the Act. It is recommended that Council appoint all currently employed Environmental Health Officers and Meat Inspectors as 'Authorised Officers' under the Food Act 2008.

The Food Act 2008 also provides additional enforcement options for Environmental Health Officers including the issuing of infringement notices for certain offences. The local government is required to designate authorised officers who will be permitted to issue infringement notices. Those officers designated to issue infringement notices will not be permitted to withdraw or revoke the infringement. It is intended that Environmental Health Officers will have the power to issue infringement notices but the power to revoke infringements notices will be given only to the Manager Environmental Health Service and Executive Manager of City Development.

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

Strategic Objective #6 of the City's Strategic Plan is to develop social capital, inclusive of community health. The new food legislation will contribute to enhanced

public health by improving food safety outcomes for food that is sold within the City of Bunbury.

### **Community Consultation**

Letters will be written to all food businesses advising them of the requirements and the fees will be publicly advertised in accordance with the Local Government Act 1995. Delivery of information seminars will be on an as needs basis.

The City's website, forms and documents will be updated to assist food businesses meet the requirements of the Food Act in relation to the notification and registration processes required of them. Environmental Health Officers will also be providing updated information and assisting the food business to comply with the Food Act 2008 during routine inspections.

### **Councillor/Officer Consultation**

Council staff have been consulted with in relation to budget and delegation register changes. The City's work procedures and policies will be amended as required.

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

It is anticipated that there will be an increase in revenue from the notification, registration and assessment processes which will be more reflective of the required resources put into the City providing this service. Although the fees are relatively low to moderate in relation to other local governments, the fees can be reviewed annually as part of the City's normal adoption of fees and charges.

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

Not applicable

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

The hospitality industry, most of which are food businesses, is important in attracting visitors to the City. Assisting food businesses to improve food safety outcomes will contribute to making the City an attractive destination for tourists.

### **Council Policy Compliance**

There is no Council Policy applicable to this proposal.

### **Legislative Compliance**

Section 6.16 of the Local Government Act 1995, allows a local government to impose fees and charges for services it provides. It also allows for fees and charges to be imposed during a financial year subject to an 'absolute majority' being achieved. Furthermore, the Local Government Act requires that if fees and charges are imposed after the annual budget has been adopted, the local government must, before introducing the fees and charges, give the local public notice of its intention to do so and the date from which the proposed fees and charges will be imposed



The Food Act 2008 was passed by the state parliament in July 2008. Its subsidiary legislation, the Food Regulations 2009, were gazetted on 23 October 2009. The legislation requires enforcement agencies (local governments) to have all food businesses notified or registered and authorised officers be appointed to carry out the duties of the Food Act 2008.

As the Food Act 2008 and subsidiary legislation are quite substantial, copies have not been provided with this report. Please refer to the State Law Publisher website [www.slp.wa.gov.au](http://www.slp.wa.gov.au) to download a copy of the legislation if required.

### **Delegation of Authority**

Section 122 of the Food Act 2008 allows an enforcement agency to appoint a person to be an 'authorised officer' for the purposes of the Act, if it considers that the officer has the appropriate qualifications and experience to perform the functions of an 'Authorised Officer' or the person has been appointed as an Environmental Health Officer under the Health Act 1911.

Section 123 of the Food Act 2008 requires the enforcement agency to provide each authorised officer with a certificate of authority which must state that it is issued under the Act. It is recommended that Council appoint all currently employed Environmental Health Officers and Meat Inspectors as 'authorised officers' under the Food Act 2008.

The City will need to amend the delegation register as per recommendation.

### **Relevant Precedents**

There are no relevant precedents.

### **Options**

No options available due to absolute majority required.

### **Conclusion**

The introduction of the Food Act 2008 represents an important change in legislation relating to food in Western Australia. It is a move toward modern outcomes based legislation with benefits for the community in providing an improved framework to undertake food monitoring activities.

The legislation requires local government to implement a number of major changes to its administrative processes and seeks Council support to implement the required changes.

### **Recommendation**

1. Appoint all Environmental Health Officers employed with the City as 'Authorised Officers' for the purposes of the Food Act 2008 under provisions of section 122(1)(b)

2. Appoint all Meat Inspectors employed with the City as 'Authorised Officers' under provisions of section 122(1)(a) of the Food Act 2008, subject to the limitation that the authorisation only applies to meat inspection and such officers cannot undertake any enforcement activity under the Food Act 2008 on behalf of the City.
3. Designate the City's 'Authorised Officers' (with the exception of the Meat Inspectors and Manager Environmental Health Services) to be 'designated officers' for the purposes of issuing 'infringement notices' under the provisions of section 126(2) of the Food Act 2008
4. Delegate authority to the Manager Environmental Health Services (Authorised Officer) to:
  - Issue 'prohibition notices' in accordance with section 65 of the Food Act 2008
  - Clear and remove 'prohibition notices' in accordance with section 66 of the Food Act 2008
  - Provide written notification not to issue a certificate of clearance in accordance with section 67 of the Food Act 2008
  - Grant, apply conditions, refuse, vary or cancel registration of a food business in accordance with the sections 110 and 112 of the Food Act 2008
5. Designate the Manager Environmental Health Service and Executive Manager City Development to be a 'designated officer' to extend and revoke 'infringement notices' under provisions of section 126(6) and 126(7) of the Food Act 2008
6. Delegate authority to the Chief Executive Officer to:
  - Appoint authorised officers in accordance with section 122(1) of the Food Act 2008
  - Issue certificates of authority to authorised officers in accordance with section 123(1) and 123(2) of the Food Act 2008
  - Appoint designated officers to issue infringement notices in accordance with section 126(2) of the Food Act 2008
  - Appoint designated officers to extend payment periods for infringement notices or withdraw infringement notices in accordance with 126(6) and 126(7) of the Food Act 2008
  - Appoint designated officers to receive payment from infringement notices under section 126(3)(c) of the Food Act 2008
7. Designate the City's Chief Executive Officer as the 'designated officer' to receive payment from 'infringement notices' under provisions of sections 126(3) of the Food Act 2008
8. Amend Council's delegation register to remove existing food legislation delegations and add above resolutions 1 to 7
9. Adopt the following fees:
  - Notification fee \$30
  - Registration fee \$100
  - Settlement enquiry of a Food business \$50
  - High risk assessment fee \$250

- Medium risk assessment fee \$200
  - Low risk assessment fee \$100
10. Give public notice of the new fees to be imposed and the date to be implemented from the 1 April 2010 in accordance with the Local Government Act 1995
  11. Authorise the Manager Environmental Health Services to waive fees for notification and registration in accordance with a work procedure (to be developed) for community and charitable organisations

#### **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Deputy Mayor, Cr Kelly.

Sarah Upton, Manager Environmental Health, was available to answer questions from members. She clarified the point in relation to the meat inspectors and gave a general overview of the differences between high, medium and low risk categories.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

#### **Committee Recommendation**

1. Appoint all Environmental Health Officers employed with the City as 'Authorised Officers' for the purposes of the Food Act 2008 under provisions of section 122(1)(b)
2. Appoint all Meat Inspectors employed with the City as 'Authorised Officers' under provisions of section 122(1)(a) of the Food Act 2008, subject to the limitation that the authorisation only applies to meat inspection and such officers cannot undertake any enforcement activity under the Food Act 2008 on behalf of the City.
3. Designate the City's 'Authorised Officers' (with the exception of the Meat Inspectors and Manager Environmental Health Services) to be 'designated officers' for the purposes of issuing 'infringement notices' under the provisions of section 126(2) of the Food Act 2008
4. Delegate authority to the Manager Environmental Health Services (Authorised Officer) to:
  - Issue 'prohibition notices' in accordance with section 65 of the Food Act 2008
  - Clear and remove 'prohibition notices' in accordance with section 66 of the Food Act 2008
  - Provide written notification not to issue a certificate of clearance in accordance with section 67 of the Food Act 2008
  - Grant, apply conditions, refuse, vary or cancel registration of a food business in accordance with the sections 110 and 112 of the Food Act 2008

5. Designate the Manager Environmental Health Service and Executive Manager City Development to be a 'designated officer' to extend and revoke 'infringement notices' under provisions of section 126(6) and 126(7) of the Food Act 2008
6. Delegate authority to the Chief Executive Officer to:
  - Appoint authorised officers in accordance with section 122(1) of the Food Act 2008
  - Issue certificates of authority to authorised officers in accordance with section 123(1) and 123(2) of the Food Act 2008
  - Appoint designated officers to issue infringement notices in accordance with section 126(2) of the Food Act 2008
  - Appoint designated officers to extend payment periods for infringement notices or withdraw infringement notices in accordance with 126(6) and 126(7) of the Food Act 2008
  - Appoint designated officers to receive payment from infringement notices under section 126(3)(c) of the Food Act 2008
7. Designate the City's Chief Executive Officer as the 'designated officer' to receive payment from 'infringement notices' under provisions of sections 126(3) of the Food Act 2008
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  - Notification fee \$30
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  - High risk assessment fee \$250
  - Medium risk assessment fee \$200
  - Low risk assessment fee \$100
10. Give public notice of the new fees to be imposed and the date to be implemented from the 1 April 2010 in accordance with the Local Government Act 1995
11. Authorise the Manager Environmental Health Services to waive fees for notification and registration in accordance with a work procedure (to be developed) for community and charitable organisations

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 6/10**

1. *Appoint all Environmental Health Officers employed with the City as 'Authorised Officers' for the purposes of the Food Act 2008 under provisions of section 122(1)(b)*
2. *Appoint all Meat Inspectors employed with the City as 'Authorised Officers' under provisions of section 122(1)(a) of the Food Act 2008, subject to the limitation that the authorisation only applies to meat inspection and such officers cannot undertake any enforcement activity under the Food Act 2008 on behalf of the City.*
3. *Designate the City's 'Authorised Officers' (with the exception of the Meat Inspectors and Manager Environmental Health Services) to be 'designated officers' for the purposes of issuing 'infringement notices' under the provisions of section 126(2) of the Food Act 2008*
4. *Delegate authority to the Manager Environmental Health Services (Authorised Officer) to:*
  - *Issue 'prohibition notices' in accordance with section 65 of the Food Act 2008*
  - *Clear and remove 'prohibition notices' in accordance with section 66 of the Food Act 2008*
  - *Provide written notification not to issue a certificate of clearance in accordance with section 67 of the Food Act 2008*
  - *Grant, apply conditions, refuse, vary or cancel registration of a food business in accordance with the sections 110 and 112 of the Food Act 2008*
5. *Designate the Manager Environmental Health Service and Executive Manager City Development to be a 'designated officer' to extend and revoke 'infringement notices' under provisions of section 126(6) and 126(7) of the Food Act 2008*
6. *Delegate authority to the Chief Executive Officer to:*
  - *Appoint authorised officers in accordance with section 122(1) of the Food Act 2008*
  - *Issue certificates of authority to authorised officers in accordance with section 123(1) and 123(2) of the Food Act 2008*
  - *Appoint designated officers to issue infringement notices in accordance with section 126(2) of the Food Act 2008*
  - *Appoint designated officers to extend payment periods for infringement notices or withdraw infringement notices in accordance with 126(6) and 126(7) of the Food Act 2008*
  - *Appoint designated officers to receive payment from infringement notices under section 126(3)(c) of the Food Act 2008*
7. *Designate the City's Chief Executive Officer as the 'designated officer' to receive payment from 'infringement notices' under provisions of sections 126(3) of the Food Act 2008*

8. *Amend Council's delegation register to remove existing food legislation delegations and add above resolutions 1 to 7*
9. *Adopt the following fees:*
  - *Notification fee \$30*
  - *Registration fee \$100*
  - *Settlement enquiry of a Food business \$50*
  - *High risk assessment fee \$250*
  - *Medium risk assessment fee \$200*
  - *Low risk assessment fee \$100*
10. *Give public notice of the new fees to be imposed and the date to be implemented from the 1 April 2010 in accordance with the Local Government Act 1995*
11. *Authorise the Manager Environmental Health Services to waive fees for notification and registration in accordance with a work procedure (to be developed) for community and charitable organisations*

CARRIED

12 Votes "For" / Nil Votes "Against"

**11.6 Glen Iris Structure Plan (December 2009) – Recommendation to Western Australian Planning Commission for Final Adoption** *(was listed as Item 11.9 on the meeting agenda)*

<b>File Ref:</b>	A00876
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Neville Dowling, Consulting Strategic Planner Thor Farnworth, Coordinator Strategic & Environmental Planning
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

The review of the Glen Iris Structure Plan was initiated following Council's adoption of the Glen Iris – Moorlands Local Area Plan on 16 December 2008. Since advertising of the revised draft Glen Iris Structure Plan which closed on 4 March 2009, progress has been delayed by issues relating to the future of bushland that occupies an area of about 25 hectares between Jubilee Road and Woodley Road in Glen Iris. The whole of that land which is currently the subject of environmental investigation is owned by the Department of Housing (DoH).

The public advertising period for the revised draft Structure Plan revealed extensive community support for retention of as much of the subject bushland as possible. Details of the events leading up to the current situation are provided in the background section of this report. The advertised version of the revised draft Structure Plan can be viewed in Attachment 1 **under separate cover** to this report.

The involvement of the federal Department of Environment, Water, Heritage and the Arts (DEWHA) since September 2009, has for the most part, taken the matter out of the City of Bunbury's control - especially with regard to the amount and location of bushland that will ultimately be conserved. Currently negotiations are underway between the DoH and the DEWHA and are likely to last for a considerable amount of time. This is because the proponents are required to provide more information in relation to the removal of the good quality bushland and also identify any possible offsets that the DoH may be able to provide. This will likely involve the conduct of more thorough fauna and/or flora surveys.

In an attempt to facilitate a mutually satisfactory outcome City Development provided the DoH, the DEWHA and the Department of Planning (DoP) with an option for modifying the revised draft Structure Plan in July 2009. This option provided for the retention of bushland identified as having conservation value by trading it off for degraded land presently reserved as "Regional Open Space" under the Greater Bunbury Region Scheme (GBRS), but which adjoins Picton's industrially zoned land. This modified version of the draft Structure Plan was included as an Appendix to an item presented to Council on 28 July 2009, and is referred to as the April 2009 draft Glen Iris Structure Plan (see Attachment 2 **under separate cover**).

Given that the City's proposed option has been presented to the DoH, DoP and DEWHA regarding the Jubilee Road bushland and that it is likely that negotiations between the proponent and the DEWHA will last for some time, it is considered best

to progress with the Glen Iris Structure Plan with the exclusion of the subject area of bushland from the plan at this present time. This approach is sound considering that the orderly and proper planning of Glen Iris will not be compromised, but that if the overall structure planning were to be stalled then the development of a future Neighbourhood Centre, Gateway commercial precinct and remaining residential land outside the area of contention may be consequentially further delayed. The proposed December 2009 Glen Iris Structure Plan Map can be viewed in Attachment 3 **under separate cover**.

### **Background**

Council at its meeting on 16 December 2008 resolved to advertise the revised draft November 2008 Glen Iris Structure Plan (Decision 246/08), for public comment during the period 21 January to 4 March 2009. Comments (including a petition) received from the community and stakeholders during the statutory advertising period confirmed City Development's analysis that the original structure plans may not have adequately accounted for the presence of ecologically significant bushland in the vicinity of Jubilee Road (refer to Attachment 1 **under separate cover** to this report). Specifically, that the original environmental planning consultant's report which identified the presence of "good" quality vegetation in this locality should have been more accurately translated into the formulation of the previous structure plans.

A significant issue raised by 42 written submissions in relation to the advertised revised draft Structure Plan, was the concern by the residents of Vittoria Heights over the loss of the native bushland area south of Jubilee Road and the proposed connection of Alyxia Drive through to the Picton Waters area. In addition, a petition containing 145 signatures regarding the matter of the bushland was received and accepted by Council at its meeting on 3 March 2009 (Decision 23/09). A copy of the submissions and the petition was presented to Council as Appendix number 5 to Minutes Item 9.1 of Council's Ordinary Meeting held on 28 July 2009.

In representing the concerns raised by residents and stakeholders regarding the Jubilee Road bushland, the City of Bunbury requested a meeting with the DoH to discuss the matter and pursue a possible modification to the advertised revised draft Structure Plan. The DoH were not available for a meeting until after an application for subdivision was lodged that proposed residential subdivision in an area occupied by approximately 25 hectares of native bushland south of Jubilee Road in Glen Iris.

The application for subdivision was lodged with the Western Australian Planning Commission (WAPC) on the 29 June 2009. The subdivision application covered Lots 21-26 Jubilee Road, 40-42 Jeffrey Road and 44 and Part Lot 45 Woodley Road in the suburb of Glen Iris. A copy of the subdivision plan can be viewed at Attachment 4 **under separate cover** to this report. The subdivision application was duly referred to the City of Bunbury for comment, and was received on 3 July 2009. The subdivision plan generally conforms to the previous draft Glen Iris Structure Plan adopted by Council in January 2004. A copy of the 2004 draft Structure Plan can be viewed at Attachment 5 **under separate cover** to this report.

The 2004 draft Structure Plan was prepared by the consulting firm Sinclair Knight Merz Pty Ltd on behalf of Council and the DoH, and was generally based on the Picton Waters Structure Plan. The Picton Waters Structure Plan was prepared on behalf of the DoH by the consulting firm Roberts Day Pty Ltd. To date only the Picton



Waters Structure Plan has been both adopted by Council in August 2002 and endorsed by the WAPC in April 2003.

An internal review of the above two structure plans was undertaken as part of the development of the Glen Iris - Moorlands Local Area Plan (LAP). With the benefit of more research and consultation, a number of improvements were identified, including greater recognition of the environmental values of the area.

At its meeting on 28th July 2009 Council resolved as follows:

- “1. *That Council advises the Western Australian Planning Commission that it does not support the submitted application for subdivision by the DoH for Lots 21 – 26 Jubilee Road, 40-42 Jeffrey Road and 44 and Part Lot 45 Woodley Road, Glen Iris for the following reasons.*
  - (a) *There has been a significant level of community concern (expressed in submissions and a petition lodged during the public advertising period of the revised draft Glen Iris Structure Plan) regarding the impact of the proposal on conservation values of the bushland south of Jubilee Road.*
  - (b) *That the conservation values of the bushland south of Jubilee Road identified in previous scientific studies may not have been adequately considered in regard to the preparation of previous structure plans and the submitted application for subdivision.*
  - (c) *That the statutory requirements of the State Government Department of Environment and Conservation and the Commonwealth Government Department of Environment, Water, Heritage and the Arts may not have been adequately addressed by previous structure plans and the submitted application for subdivision.*
2. *That Council requests the applicant to withdraw the application for subdivision and to liaise with the City of Bunbury, the Western Australian Planning Commission, the Department of Environment and Conservation and the Department of Environment, Water, Heritage and the Arts.*
3. *That the DoH be further invited to participate in the completion of the revised draft Glen Iris Structure Plan as a key stakeholder, by engaging with the City in its consideration of the proposed modification to the advertised Structure Plan in order to facilitate positive environmental, social and economic outcomes (refer to the Glen Iris Structure Plan at Appendix 3 to this report).”*

A meeting was achieved with senior staff of the DoH on the 3rd August 2009. This was after numerous attempts over a period of approximately three months to meet with members of the Department. The main outcome of the meeting was that the DoH was not favourable to any other options other than the submitted subdivision plan. Nevertheless following negotiations between the WAPC and the DoH in September 2009, the Department agreed to defer the subdivision application while environmental issues are further considered. Also stating that “the Department intends, as a next step, to engage with the Commonwealth and State Environmental Agencies”.

Since the deferral of the subdivision application the DoH has been engaged in extended consultation with the DEWHA. Officers of the DEWHA along with officers of the state Department of Environment and Conservation (DEC) undertook a site

inspection of the Jubilee Road bushland and wetland in October 2009. The City of Bunbury in proactively discharging its responsibilities under the *Environment Protection and Biodiversity Conservation Act 1999* has sought to remain involved (as the authority responsible for structure planning); however, the DEWHA are principally concerned with dealing directly with the landowner. Nevertheless, verbal advice from the DEWHA is as follows:

- The Jubilee Road bushland is of regional significance and needs to be considered for conservation not only for its own intrinsic values, but because it is the northern extent of an ecological network that extends around the Geopraphe Bay area.
- The DoH is required to provide more justification to remove the bush and/or provide replacement habitat areas if the Department wishes to develop the land covered by high quality vegetation, which is identified as being habitat for Western Ringtail Possums, Black Cockatoos and various species of rare and endangered flora.
- The DEWHA is generally supportive of the land swap option that provides the DoH with an offset of degraded land for industry north of the abattoir as shown in the violet coloured area depicted on the April 2009 draft of the Glen Iris Structure Plan (refer to Attachment 2 under separate cover to this report).

From discussions with the DEWHA, planning consultants TME and the DoH, it is evident that it will be a significant amount of time before the issue of residential subdivision in the area between Jubilee and Woodley Roads can be resolved. The Glen Iris Structure Plan area contains other precincts that need the support of the Structure Plan in order to be rezoned and developed. Primarily these include:

- the Gateway commercial precinct at the intersection of Vittoria Road and the Bypass;
- the Neighbourhood Centre precinct at the intersection of Jeffrey and Vittoria Roads; and
- approximately 16 hectares of proposed residential land east of Vittoria Road and north of Kaeshagen Street.

Currently progress on implementation plans for all these precinct areas is being delayed due to the situation with the Jubilee Road bushland. As it is highly likely that the Jubilee Road bushland issue will not be resolved for at least six months, it is therefore considered necessary to progress with the Glen Iris Structure Plan with the Jubilee Road bushland area shown as "Subject to Further Investigation". It should be noted that this course of action will not require further review of the Glen Iris Structure Plan in order to progress with development of the investigation land at a later date. There will be no constraints to the DoH bringing the plan back into the Glen Iris Structure Plan as a minor modification in keeping with the intent of the originally adopted Local Area Plan.

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

The advertised revised draft Glen Iris Structure Plan, and proposed modifications, form part of the Glen Iris - Moorlands Local Area Plan (LAP). 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). The aim of the proposed revised draft Structure Plan is to facilitate the orderly and proper planning of the subject land in accordance with the Scheme, the *Planning and Development Act 2005* and the State Planning Framework.

### **Community Consultation**

Public advertising of the 2009 revised draft Glen Iris Structure Plan occurred from 21 January 2009 up to and including 4 March 2009. A total of 69 submissions were received. Forty two of the submissions related to objections and concerns regarding the proposed development of the bushland south of Jubilee Road. The submissions included a petition which contained 145 signatures. The petition was accepted by Council on 3 March 2009 (Decision 23/09).

In addition a submission from the DEC raised significant concerns regarding the high conservation value of the bushland and the recognized presence of rare and endangered native fauna such as the Western Ringtail Possum and the Black Cockatoo (a copy of the letter can be viewed at Attachment 6 under separate cover to this report). The DEC also commented that the proponent may be required to refer the proposal to the DEWHA, as it was potentially an environmental matter deemed to be of national importance (refer to Attachment 7 under separate cover to this report for copy of the letter from the DEWHA).

Following analysis of the submissions and the advice of the DEC it was confirmed that the Jubilee Road bushland has potentially significant ecological (and community) value for the following reasons:

- It has high conservation value in terms of flora and fauna. Rare and endangered species are known to exist in the area. This can be substantiated from the results of previous environmental studies in the area, comments from the DEC and the photos and knowledge of members the local community who have taken a great deal of interest in the bushland.
- The bushland has a role as an effective buffer between the residential areas of Vittoria Heights and future industrial areas to the south, including the existing DBC abattoir which has been known to cause a loss of amenity for the residential areas in Glen Iris over a number of years.
- The bushland is highly valued by the community for its natural attributes and passive recreation use including educational pursuits for the Picton Primary School.
- The majority of the bushland in Glen Iris has already been cleared and the subject area represents one of the last areas of good quality remnant bushland within the City of Bunbury. There is significant transport infrastructure surrounding the area (i.e. Port Access Road, railway service corridor, and the land for Inner Harbour expansion). The bushland assists in buffering some of the noise and dust impacts generated by this transport infrastructure and future port activity.

### **Councillor/Officer Consultation**

Along with State government agency representatives (including the DoP), the Mayor and Councillors (two representatives) and the Executive Manager City Development were integral to the Glen Iris - Moorlands Project Control Group (PCG). Council

briefing sessions previously took place in February and March 2006 and then again in December 2007.

The Glen Iris - Moorlands local area planning project has also extensively involved the City's engineering services and strategic and statutory planning staff. A site visit of the entire local area, including the bushland south of Jubilee Road, was carried out on 19 June 2008 and involved most of the City's planning staff.

Since this time, Council planning officers have been in constant contact with officers of the DoP, DoH, DEC, federal DEWHA and the various other state government agencies that are involved in the land development process.

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

There are no direct budget ramifications however, if subdivision is to occur then the normal conditions for the making of land and cash contributions for the development of the subject area can be expected to occur in accordance with the *Planning and Development Act 2005*, the relevant policies of the State Planning Framework and Council's adopted Glen Iris Cost Share Agreement. This means that the costs of subdivision and development of the land is the responsibility of the subdivider, and is subject to the specification and satisfaction of the City of Bunbury.

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

#### *Environmental Issues*

The "Picton Waters Estate Vegetation and Wetland Management (June 2002)" report, produced by consultants Bowman Bishaw Gorham on behalf of the DoH in support of the earlier structure planning exercises, indicated relatively large areas of natural vegetation rated as being in "good" to "very good" condition.

The latest subdivision application includes a "Vegetation Surveys and Rare Flora Searches Study" prepared by the consulting botanist Dr Arthur Weston. This study was carried out in January 2009 and rates the vegetation in the area as ranging from "Completely Degraded" to "Very Good". The report also stated that:  
*"No Declared Rare Flora species was found, nor were any likely habitats for any identified, and it is unlikely that any such species occurs in the project area."*

However, the later 2009 study by Dr Arthur Weston states that a number of Priority Flora species were observed in this locality. It should also be noted that the flora survey conducted by Dr Arthur Weston occurred during summer when plant identification is difficult due to the absence in many cases of observable plant reproductive structures, a key method of plant identification, or impossible in the case of dormant annual plants. Hence, this flora survey may have failed to record the presence of Declared Rare Flora in this locality, and as such, the DEC may require the scientific standard of a spring time flora survey to occur prior to permitting any subdivision of the land.

The DEC since advised in a letter to the City (refer to Attachment 6 **under separate cover** to this report) that the area contains habitat for the threatened Western Ringtail Possum (*Pseudochierus occidentalis*). The federal DEWHA advised, in a letter to the City (refer to Attachment 7 **under separate cover** to this report) that in

addition to the Western Ringtail Possum the area may also support the Carnaby's White-tailed Black Cockatoo (*Calyptorhynchus latirostris*) and Baudin's White-tailed Black Cockatoo (*Calyptorhynchus baudinie*). The DEWHA advised that all three species are protected under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, and that any proposal likely to have a significant impact upon these species must be referred to the federal Minister for the Environment, Water, Heritage and the Arts for assessment.

The DEWHA further advised that in the case of Western Ringtail Possums in the Bunbury area, a significant impact is considered to be any clearing in a remnant habitat patch that is greater than 0.5 hectares in size. The DEWHA has also advised that it is the proponent's responsibility to refer such proposals to the Minister and that heavy penalty can apply under the Commonwealth Act if they fail to do so.

Considering the advice of the state and federal government departments regarding the potentially significant conservation values of the subject area, it can be concluded that the proposal may be subject to legislative constraints. It is therefore considered that potential options for the retention and conservation of this bushland through the latest structure planning process should be explored by relevant decision-making authorities in order to facilitate compliance with the relevant environmental legislation (and avoidance of potential penalties and community concerns) and progression of orderly and proper planning outcomes.

#### Environmental Health Issues

Assessment of the subdivision application has also resulted in the following recommendations in relation to environmental (public) health issues:

- The need for the subdivision application to be referred to the Environmental Protection Authority (EPA) to conduct an Environmental Impact Assessment. The proposed subdivision plan currently shows residential lots located inside the minimum 500 metre buffer distance (as stated in the EPA document "Guidelines for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses") to the existing abattoir located at Lot 100 Wimbridge Road, Picton. These Guidelines define the buffer as "all the land between the boundary of the area that may potentially be used by an industrial land use, and the boundary of the area within which unacceptable adverse impacts due to industrial emissions on the amenity of sensitive land use are possible. This may be represented by the separation distance". Development of sensitive land uses (i.e. residential) inside the buffer zone may result in future residents being exposed to unacceptable odour, noise and dust emissions.
- The need for the applicant to conduct a mosquito and midge disease and nuisance risk assessment in relation to potential mosquito and midge breeding sites contained within the proposed public open space. It should be noted that a mosquito management plan may be required dependent on the outcome of risk assessment.

#### Social Issues

The development of the Jubilee Road bushland would have considerable negative social outcomes for the local community as it is valuable for passive recreation activities, visual amenity and provides for appreciation of natural conservation assets

for the local and wider community. It is also understood to be used by the local schools for nature studies.

#### Heritage Issues

There are no known post-colonisation cultural heritage issues related to the area; however, the southern most portion of the land proposed to be subdivided borders onto the area of influence of Aboriginal Heritage Site 4817. Therefore, more archaeological surveys may be required in this area by the Department of Indigenous Affairs (DIA).

#### Economic Issues

If subdivision is to occur the creation of additional residential land use activities 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 concomitant to the resulting population growth.

If the bushland area is to be conserved, it is likely that it would need to be reserved as "Regional Open Space" under the Greater Bunbury Region Scheme (GBRS) and maintained by the State Government. This matter requires further investigation depending upon the outcome of the subdivision application.

#### **Legislative and Council Policy Compliance**

The requirements for local structure plans are detailed in section 5.9.13 of the City of Bunbury Town Planning Scheme No. 7. Once the City of Bunbury has advertised the structure plan it is required to be forwarded to the WAPC, along with Council's recommendation and a copy of the submissions, for final endorsement by the WAPC prior to Council adopting the structure plan (refer to clause 5.9.13.7 of the Scheme).

Due to the wording of clause 5.8.13.7, part of the recommendation of this report is to provide delegated authority to the Chief Executive Officer to authorise the finalisation of the adoption procedure for structure plans where:

- they are subject to a Council resolution to adopt the structure plan; and
- no modifications have been made or required by the WAPC.

In circumstances where modifications have been required to be made to the adopted structure plan then it will be resubmitted to Council for reconsideration. It should be noted that the wording of clause 5.8.13.7 is the subject of Model Scheme Text review, as the provision introduces unnecessary procedural inefficiency without any real administrative or regulatory benefit. Indeed, the recommended approach reflects current (and realistic) practice in formulating structure plans by the Local Government, including those of earlier structure plans in Glen Iris.

#### **Delegation of Authority**

There is no relevant delegation of authority in respect of this proposal.

### **Relevant Precedents**

The statutory components of the Glen Iris - Moorlands Local Area Plan includes a set of local structure plans and scheme amendments, which are regulated under the heads of power conferred by the Local Planning Scheme (i.e. TPS7) and the *Planning and Development Act 2005*, respectively.

### **Options**

#### Option 1

As per the recommendation listed in this report.

#### Option 2

Council resolves to defer the finalising of the revised draft Glen Iris Structure Plan until after the conservation issues regarding the Jubilee Road bushland are addressed and a decision has been made as to which areas can be developed and which areas will be conserved.

### **Conclusion**

During the structure planning process it has been identified that there are significant community and stakeholder concerns regarding the high conservation value of the remnant native bushland in the area between Jubilee Road and Woodley Road, Glen Iris. More recently, the involvement of the federal DEWHA has further compounded the importance of the conservation values of the Jubilee Road bushland.

Currently, a subdivision application remains deferred until the conservation values of the bushland are re-evaluated and the DEWHA and the DoH have come to an agreement over the areas that can be subdivided, and any possible land swaps that may allow for more developable land in degraded portions of the DoH's landholdings. As it is likely that the matters mentioned above will take a considerable amount of time to resolve it is considered appropriate to progress with the balance area of the Glen Iris Structure Plan, which is not affected by the conservation issues discussed in this report.

A full copy of the December 2009 Glen Iris Structure Plan document is attached in Attachment 8 under separate cover. A schedule of modifications made to the plan and document is attached in Attachment 9 under separate cover.

As an efficiency measure a recommendation has been included for the delegation of authority to the Chief Executive Officer to permit the finalisation of the adoption procedure for structure plans. This delegation only has effect where Council has adopted a structure plan subject to endorsement by the WAPC with no modifications (other than minor text changes). This means that the structure plan document does not have to be represented to Council a second time if it has not been modified by the WAPC in any significant manner. Text changes that are considered to be insignificant are those that are purely typographical or administrative and do not impinge on matters that will affect the layout or intent of the structure plan.

In regard to the fourth recommendation, at its meeting on 16 December 2008 (Decision 246/08) Council agreed to rescind the Picton Waters Structure Plan. Nevertheless, in accordance with clause 5.9.13.9 of the Scheme it is necessary that the WAPC also agrees to rescind the redundant structure plan prior to the new structure plan taking effect.

### **Recommendation**

That Council resolves as follows:

1. Subject to endorsement by the Western Australian Planning Commission, and pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council resolves to adopt the revised draft Glen Iris Structure Plan as modified (attached at Attachment 8 **under separate cover** to this report).
2. Pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council requests the endorsement of the revised draft Glen Iris Structure Plan (as attached in Attachment 8 **under separate cover**) by the Western Australian Planning Commission.
3. That the following delegation be added to the City of Bunbury Delegation Register:  
"3.19 Final Adoption of Structure Plans  
Pursuant to the provisions of section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer is delegated the authority to authorise the adoption of a structure plan that is endorsed by the Western Australian Planning Commission (WAPC) and is subject to a Council resolution to adopt the structure plan in accordance with the provisions of section 5.9.13 of the City of Bunbury Town Planning Scheme No. 7. This delegation is subject to there being no modifications made to the endorsed and adopted structure plan, other than minor textual changes having been made to the structure plan by the WAPC."
4. Pursuant to the *Planning and Development Act 2005* and clause 5.9.13.9 of the City of Bunbury Town Planning Scheme No. 7, Council requests that the Western Australian Planning Commission rescind the Picton Waters Structure Plan.

### **Outcome - Council Committee Meeting 2 February 2010**

The Mayor asked if there were any members of the public that would like to speak to the item. Karen Collins, 3 Elata Court Vittoria Heights, spoke in support of conserving the bushland but was concerned about the amount of public housing for the area. There was some discussion as to what would happen with the land that Department of Housing (Homeswest) owns in the area. The Executive Manager City Development believes that there would be a land swap or monetary compensation but that had nothing to do with Council that it was between the Western Australian Planning Commission and Homeswest.



The recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr Leigh.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

That Council resolves as follows:

1. Subject to endorsement by the Western Australian Planning Commission, and pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council resolves to adopt the revised draft Glen Iris Structure Plan as modified (attached at Attachment 8 under separate cover to this report).
2. Pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council requests the endorsement of the revised draft Glen Iris Structure Plan (as attached in Attachment 8 under separate cover) by the Western Australian Planning Commission.
3. That the following delegation be added to the City of Bunbury Delegation Register:  
  
"3.19 Final Adoption of Structure Plans  
Pursuant to the provisions of section 5.42 of the Local Government Act 1995, the Chief Executive Officer is delegated the authority to authorise the adoption of a structure plan that is endorsed by the Western Australian Planning Commission (WAPC) and is subject to a Council resolution to adopt the structure plan in accordance with the provisions of section 5.9.13 of the City of Bunbury Town Planning Scheme No. 7. This delegation is subject to there being no modifications made to the endorsed and adopted structure plan, other than minor textual changes having been made to the structure plan by the WAPC."
4. Pursuant to the Planning and Development Act 2005 and clause 5.9.13.9 of the City of Bunbury Town Planning Scheme No. 7, Council requests that the Western Australian Planning Commission rescind the Picton Waters Structure Plan.

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

*(Full Council Decision shown overleaf)*

**Council Decision 7/10**

*That Council resolves as follows:*

1. *Subject to endorsement by the Western Australian Planning Commission, and pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council resolves to adopt the revised draft Glen Iris Structure Plan as modified (attached at Attachment 8 under separate cover to this report).*
2. *Pursuant to clause 5.9.13.7 of the City of Bunbury Town Planning Scheme No. 7, Council requests the endorsement of the revised draft Glen Iris Structure Plan (as attached in Attachment 8 under separate cover) by the Western Australian Planning Commission.*
3. *That the following delegation be added to the City of Bunbury Delegation Register:*  
  
*“3.19 Final Adoption of Structure Plans  
Pursuant to the provisions of section 5.42 of the Local Government Act 1995, the Chief Executive Officer is delegated the authority to authorise the adoption of a structure plan that is endorsed by the Western Australian Planning Commission (WAPC) and is subject to a Council resolution to adopt the structure plan in accordance with the provisions of section 5.9.13 of the City of Bunbury Town Planning Scheme No. 7. This delegation is subject to there being no modifications made to the endorsed and adopted structure plan, other than minor textual changes having been made to the structure plan by the WAPC.”*
4. *Pursuant to the Planning and Development Act 2005 and clause 5.9.13.9 of the City of Bunbury Town Planning Scheme No. 7, Council requests that the Western Australian Planning Commission rescind the Picton Waters Structure Plan.*

CARRIED  
12 Votes “For” / Nil Votes “Against”

**11.7 Proposed Construction of New Showroom at Lot 28 (No. 62) Spencer Street – Zero Setback Fronting Spencer Street** *(was listed as Item 11.11 on the meeting agenda)*

<b>File Ref:</b>	P08775
<b>Applicant/Proponent:</b>	PPAC Planning & Surveying
<b>Author:</b>	Kevin Townroe, Planning Officer
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

An application has been received for the construction of a 471sqm showroom at ground level with a 79sqm storage area above. The site is 688sqm in area and currently comprises a single story building. The subject site is located on the corner of Lovegrove Avenue and Spencer Street.

Town Planning Scheme No.7 requires a 7.5 metre minimum building setback (front street) for new developments, the proposal is for a zero setback to the front with 7.5 metre setback for the upper storage area element of the proposed development. However, Clause 5.5 of Town Planning Scheme No.7, allows Council to consider variations to the Scheme requirements for developments based on merit and site specific circumstances whereby the local government may, despite the non-compliance consider approving an application.

There are restraints on access to the front of the property from Spencer Street by virtue of proximity to a junction whereby to allow access at this point is likely to compromise traffic safety at this relatively busy junction. The existing building currently enjoys a zero setback to Spencer Street. Development Services consider that, given the specific site circumstances, approval of the proposed development would be order in this instance.

**Background**

The existing building on the site is of single storey with several other smaller structures located at the rear. Several businesses have recently operated from the existing building to include the former 'Indiana sports' which has recently located within the CBD.

The property fronts onto Spencer Street while vehicular traffic visiting the site currently utilise access from Lovegrove Avenue. There are plans by the City engineering department for a new Spencer Tuart Street Intersection which would prohibit access into the subject lot from Spencer Street. However, notwithstanding the planned works, given the proximity to the corner / existing road junction, the City is unlikely to grant access to the property from Spencer Street as such an option would create traffic safety concerns.

The development standards (TPS.No.7), Table 3 - for front set backs within the Mixed Business zone is 7.5 metres as previously mentioned, and although the prescribed setback area is to remain free of building, this area, can however be utilised for car-parking and in most cases fulfil the car-parking requirements as

prescribed in Table No.2 'Car Parking Guidelines' of TPS.No.7. The option of utilising the front setback area for car-parking would not be an option available in this instance. However, there would still remain a requirement for the applicant to provide 8 car parking spaces for the proposed development which would be located at the rear of the proposed showroom. If the setback requirement was to remain, i.e. 7.5 metre front setback, along with the requirement for rear parking then approximately 50% of the site would be taken up by car-parking and the front setback of 7.5 which would become unusable in this instance. It is considered therefore that a variation to the front setback requirement is in order in this instance.

Attachment 1 **under separate cover** is a site location map

Attachment 2 **under separate cover** is the applicant's justification statement.

Attachment 3 **under separate cover** is a copy of the plans as proposed.

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

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

### **Community Consultation**

It is considered that the proposed setback variation as proposed is unlikely to affect any owners or occupiers in the general locality or adjoining the site and would not compromise the Scheme provisions set out in Clause 10.2 of Town Planning Scheme No.7, as such it is considered that community consultation is not necessary in this instance.

### **Councillor/Officer Consultation**

The various issues relating to this matter have been broadly canvassed at staff level with a view to achieving a corporate approach to the decision making process.

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

It is considered that there would be no adverse impact on the Municipal Budget.

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

#### Economic

Economic impact, however marginal, would be positive.

#### Social

It is considered that there would not be any adverse social impact(s) should the development proceed.

#### Environmental

Not relevant.

### Heritage

There are no heritage issues relative to the proposed development.

### **Council Policy Compliance**

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

### **Legislative Compliance**

The proposal is in accordance with the requirements of the City of Bunbury, Town Planning Scheme No 7 under the Planning and Development Act 2005.

### **Delegation of Authority**

Delegation of authority does not apply in this instance.

### **Relevant Precedents**

The Highway Hotel (proposed extensions/alterations), located approximately 200 metres south of the subject site, was approved by the State Administrative Tribunal with zero setbacks to Spencer within the last 12 months (REF: DR 411 / 2008).

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Should Council resolve to refuse issue of planning approval for the proposed development, a suggested format for such action would be as follows:

*"Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to refuse grant of planning approval to PPAC – Planning & Surveying for the construction of a showroom (plans marked DA 1 rev 'A', DA 2 and DA3, Nov 2009) at Lot 28 (No. 62) Spencer Street, Bunbury.*

### **Conclusion**

It is considered that issue of development approval would be in order. The existing building on the site has historically had zero setbacks to both Spencer Street (Front) and Lovegrove Avenue (side). It is considered that the proposed development, by virtue of maintaining the current zero setback arrangement, would have no greater visual impact on the streetscape or adversely affect the amenity of adjoining or nearby properties than currently exists.

### **Recommendation**

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to PPAC Planning & Surveying for the construction of a showroom (plans marked DA 1 rev 'A', DA 2 and DA3, Nov 2009) at Lot 28 (No. 62) Stirling Street, Bunbury, subject to the standard conditions to be determined by the Manager of Development Services.

### **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Jones, seconded Deputy Mayor Cr Kelly.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

### Committee Recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to PPAC Planning & Surveying for the construction of a showroom (plans marked DA 1 rev 'A', DA 2 and DA3, Nov 2009) at Lot 28 (No. 62) Spencer Street, Bunbury, subject to the standard conditions to be determined by the Manager of Development Services.

### **Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

#### **Council Decision 8/10**

*Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to PPAC Planning & Surveying for the construction of a showroom (plans marked DA 1 rev 'A', DA 2 and DA3, Nov 2009) at Lot 28 (No. 62) Spencer Street, Bunbury, subject to the standard conditions to be determined by the Manager of Development Services.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.8 Response to Motion on Notice – Toilet Facilities for the Bunbury CBD Entertainment Precinct** *(was listed as Item 11.13 on the meeting agenda)*

<b>File Ref:</b>	A03667
<b>Applicant/Proponent:</b>	Councillor Craddock
<b>Author:</b>	Karen Oborn, Contract Project Officer
<b>Executive:</b>	Michael Scott, Executive Manager City Services

**Summary**

As Automated public conveniences have proved to be successful for the City, and at present there are no public toilet facilities in Bunbury's entertainment and restaurant precinct: Council has requested that the City's Officers prepare a submission for consideration during the next round of the 'Royalties for Regions' submissions, for the supply and installation of 'Exeloo' toilet facilities at an appropriate site in the Bunbury CBD Entertainment District - The submission is to include a suggested location and estimated costing

**Background**

Council Decision 213/09 adopted at the Council Meeting 3 November 2009 -

*"The City's Officers to prepare a submission for consideration during the next round of the 'Royalties for Regions' submissions, for supply and installation of 'Exeloo' toilet facilities at an appropriate site in the Bunbury CBD Entertainment District - the submission to include a suggested location and estimated costing."*

**Strategic and/or Regional Outcomes**

Strategic Outcome

The proposal to provide public toilet facilities in the Bunbury CBD Entertainment District complies with the City of Bunbury Strategic Plan 2007-2012 and in particular strategy 3.2 which states that the City will "Have well-planned, developed and maintained City Infrastructure".

Regional Outcome

The proposal benefits the region as it will provide further public conveniences to visitors from within the Greater Bunbury Region and to visitors from outside the region.

**Community Consultation**

The community has expressed their request for public toilets to be installed in the CBD area through Council members.

**Councillor/Officer Consultation**

Consultation has been undertaken with Planning and Engineering departments.

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

A single unit "Exeloo" will cost approximately:	\$ 255,000	Total
A dual unit "Exeloo" will cost approximately:	\$ 355,000	Total

The final cost will be dependant on final site selection, and the options/ type of "Exeloo" selected by Council.

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

N/A

### **Council Policy Compliance**

There is no Council policy applicable to this recommendation.

### **Legislative Compliance**

Not applicable.

### **Delegation of Authority**

The Chief Executive Officer has delegated authority to approve this recommendation. This report is to seek Councils endorsement of the recommended actions in response to Council resolution 213/09.

### **Relevant Precedents**

There are no relevant precedents.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council does not proceed with the installation of a public facility in the CBD.

### **Conclusion**

A range of sites were considered. Map **attached** at appendix 1  
The possibilities are suggested below;

SITE 1: Symmons St. End of Bicentennial Square

There could possibly be some future upgrades to the bus station, and installation of a caravan parking bay. This shouldn't affect the toilet site, and the facilities could also be used by visitors using caravan parking facilities. The site is approximately 100m from the corner of Symmons St. and Victoria St. There is good visibility from roadway and site has existing street lighting.



However the site is not visible from Victoria Street, but could easily be sign posted.

SITE 2: Symmons St. end of Entertainment Centre Car Park

There could possibly be some redevelopment of the Entertainment centre and surrounding car parks which could have a future impact on the toilet location if redevelopment and subdivision go ahead. The site is approximately 100m from the corner of Symmons St. and Victoria St. There is good visibility from roadway and site has existing street lighting.

However the site is not visible from Victoria Street, but could easily be sign posted.

SITE 3: Victoria St. end of Elliot Street in car park next to Newsagent.

There could possibly be some redevelopment of the Entertainment centre and surrounding car parks which could have a future impact on the toilet location if redevelopment and subdivision go ahead. The site is located on Victoria Street. There is good visibility from roadway and site has existing street lighting.

However use site could result in the loss of 2 to 3 car park bays. Community Law and Safety have also indicated they may be seeking to install some disabled parking bays in the same car park, which would result in a further reduction of car parking bays.

Other types of Sites considered and reason rejected:

Street Locations such as Eliot Street or Wellington Street.

There is no area really large enough to discretely place the unit/s. The installation of an automatic toilet on the street or kerb side has the potential to impact the streetscape in a negative manner as well as restrict pedestrian flow.

### **Recommendation**

1. Council determines the preferred location for the facility.
2. A 'Royalties for Regions' submission be made on the basis that a facility costing up to \$360,000 is proposed and will be installed in the CBD at the location selected by Council

### **Outcome - Council Committee Meeting 2 February 2010**

Councillor Jones left the meeting at the end of the previous item and did not return. She was not present for voting on any of the items from herein.

The recommendation (as printed) was moved Cr Major, seconded Cr Spencer.

There was some concern over the position of site 3 as to the amount of parking bays that would be impacted if the exeloo's were placed there. An amendment was made to make the preferred location to be at the Entertainment Centre end of Elliot Street

without impacting on the carpark. The mover and seconder agreed to the amendment.

The motion (as amended) was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

1. Council determines the preferred location for the facility.
2. A 'Royalties for Regions' submission be made on the basis that a facility costing up to \$360,000 is proposed and will be installed in the CBD at the location selected by Council
3. Council's preferred location is the Entertainment Centre end of Elliot Street without impacting on the carpark

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 9/10**

1. *Council determines the preferred location for the facility.*
2. *A 'Royalties for Regions' submission be made on the basis that a facility costing up to \$360,000 is proposed and will be installed in the CBD at the location selected by Council*
3. *Council's preferred location is the Entertainment Centre end of Elliot Street without impacting on the carpark*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.9 Tender for: Taxiway Extension Bunbury Airport RFT 2009/2010-15** (was listed as Item 11.14 on the meeting agenda)

<b>File Ref:</b>	F00080
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Nigel Archibald, Senior Engineering Technical Officer
<b>Executive:</b>	Michael Scott, Executive Manager City Services

**Summary**

The City of Bunbury advertised for a suitably qualified and experienced Civil Works contractor to extend the current bitumen taxiway at the Bunbury Airport, South Western Highway.

**Background**

Tender documents were prepared and advertised in *The West Australian* on 25 November 2009 and in the *South Western Times* on 26 November 2009.

Tenders closed at 3:00pm on Thursday, 17 December 2009. The City's Senior Engineering Technical Officer, Engineering Technical Officer and the Contract Co-ordinator opened the tender box.

A total of 22 interested companies requested and received the tender documents.

By closing, nine tenders had been received, as follows:

- 1 Downer Works, 103 Fauntleroy Ave, Redcliffe WA
- 2 Carbone Bros, PO Box 61 Brunswick Junction WA
- 3 Correctline Contracting Lot 7 Picton Rd, Picton WA
- 4 RJ Vincent, 4 Kirke St, Balcatta WA
- 5 Geographe Civil, 11 Henson St, Davenport WA
- 6 Leeuwin Civil, PO Box 5179, West Busselton WA
- 7 Malavoca, 36 Murray Rd, North Welshpool WA
- 8 CECK Pty Ltd, 45 Hope Valley Road, Naval Base WA
- 9 APH Contractor, Lot 26 Wetherley Road, Picton WA

An evaluation panel comprising the, Senior Engineering Technical officer and Engineering Technical Officer assessed the responses on the 18 and 21 December 2009. The tenders were evaluated using the following criteria:

- Compliance
- Qualitative
- Price

Compliance Criteria

The following compliance criteria were used to assess the tender:

- a) Compliance with the Specifications contained in the request Yes/No

- b) Compliance with the Conditions of Tendering Yes/No
- c) Compliance with the Safety requirements Yes/No
- d) Compliance and completion of the Schedule of Rates Yes/No

#### Qualitative Criteria

The following Qualitative Criteria were used to assess the tender:

- |   | Weighting |
|---|-----------|
| a) Relevant experience with similar projects    | 5         |
| b) Key personnel, skills and experience.        | 5         |
| c) Demonstrated understanding of scope of works |           |
| d) Tenders Resources – plant, equipment, labour | 5         |

#### Price

Evaluation of the tender prices (and ranking) has been assessed but because the results are "commercial in confidence" details are listed in a Confidential Report that has been circulated to members **under separate cover**.

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

Construction of the taxiway is consistent with the Bunbury Airport Structure Plan as endorsed by Council on the 19 August 2008.

#### **Community Consultation**

Community consultation was not carried out during this process.

#### **Councillor/Officer Consultation**

The tender specifications were developed in consultation with Council's Engineering staff.

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

Funding for this project is provided from:

- Department of Transport RADS grant \$171,500
- Lake Preston Lime \$48,000 donation of material.
- RLCIP grant \$130,000

At the Council Meeting dated 3 November 2009, it was resolved that the taxiway extension would be submitted for funding under the Federal Government Regional and Local Community Infrastructure Program (LRCIP). Acceptance of the funding application is expected in early February 2010.

#### **Life- cycle Maintenance Costs (Capital Works Projects Only)**

Ongoing maintenance of the taxiway will be funded from the Bunbury Airport maintenance budget.

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

Local purchasing will assist the local economy

### **Council Policy Compliance**

The tender process complies with the requirements of the City's Work Procedure WP4.12 "Tender Procedure and Associated Legislation."

Council's CD2 "Purchasing - Local Preference Policy" was applied during evaluation of the tender but has not affected the outcome.

### **Legislative Compliance**

Advertising and processing of tenders was conducted in accordance with the Local Government (Function and General) Regulations 1996, Part 4 "Tenders for Providing Goods or Services".

### **Delegation of Authority**

The total costs of this contract exceeds \$100,000 therefore it has been dealt with in accordance with Local Government (Functions and General) Regulations 1996 (Part 4 - Tenders for Providing Goods or Services).

### **Relevant Precedents**

Council has dealt with all tenders previously called.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Reject all tenders

*Comment: This is NOT supported by the Tender Evaluation Panel.*

### **Conclusion**

Based on the panels evaluation of the tender documents submitted by all respondents the recommended tenderer is Geographe Civil as this company has provided the City with a competitive price, demonstrated its ability to provide quality products and services, and, its tender is considered to be the most advantageous tender to the City.

### **Recommendation**

With respect to Tender RFT 2009 2010-15 for the Taxiway Extension at the Bunbury Airport, the Council resolves to:

- 1 Accept the tendered lump sum fee submitted by Geographe Civil ABN: 64414948192
- 2 Record details of the successful tender in the City of Bunbury Tender Register.
- 3 The contract not be awarded until confirmation has been received that the Regional and Local Community Infrastructure Program (RLCIP) funding has been approved.

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Harrop, seconded Cr Major.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

With respect to Tender RFT 2009 2010-15 for the Taxiway Extension at the Bunbury Airport, the Council resolves to:

- 1 Accept the tendered lump sum fee submitted by Geographe Civil ABN: 64414948192
2. Record details of the successful tender in the City of Bunbury Tender Register.
3. The contract not be awarded until confirmation has been received that the Regional and Local Community Infrastructure Program (RLCIP) funding has been approved.

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 10/10**

*With respect to Tender RFT 2009 2010-15 for the Taxiway Extension at the Bunbury Airport, the Council resolves to:*

- 1 *Accept the tendered lump sum fee submitted by Geographe Civil ABN: 64414948192*
2. *Record details of the successful tender in the City of Bunbury Tender Register.*

3. *The contract not be awarded until confirmation has been received that the Regional and Local Community Infrastructure Program (RLCIP) funding has been approved.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.10 National Climate Change Forum – Adelaide, South Australia 18 to 19 February 2010** (was listed as Item 11.15 on the meeting agenda)

<b>File Ref:</b>	A00963
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

The National Climate Change Forum will be held in Adelaide, South Australia from 18 to 19 February 2010. It is proposed that His Worship the Mayor will represent Council at the forum.

In accordance with the Council Policy the Mayor requires the permission of Council to travel interstate to attend the conference.

**Background**

This forum will address the challenge of preparing coastal communities to manage the risk of climate change.

Two significant reports have been recently released focusing on climate change impacts in Australia's coastal zone. These are:

- The House of Representatives Climate Change, Water, Environment and the Arts Standing Committee released an Inquiry report, *Managing our coastal zone in a changing climate: the time to act is now*.
- *Climate Change Risks to Australia's Coast: a first pass national assessment*, was prepared by the Department of Climate Change and launched by the Minister for Climate Change and Water, Senator the Hon. Penny Wong on 14 November 2009.

The reports will be discussed with Forum participants in considering national adaptation priorities.

**Strategic and/or Regional Outcomes**

Climate change brings significant risks to the coastal zone. The Australian Government Department of Climate Change is hosting a National Climate Change Forum: Adaptation priorities for Australia's Coast.

Participation in the Forum will bring together all tiers of government, community and business professions and research organisations. The forum will discuss the scale of problem Australia faces, identifies the key risks and outlines the role of adaptation to manage risks.

**Community Consultation**

Nil



### **Councillor/Officer Consultation**

Nil

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

Conference registrations, accommodation and attendance costs can be met from within the existing Councillor Conference Expenses Budget.

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

Keeping abreast of the National Climate Change initiatives will assist in identifying economic, social, and environmental issues faced by local authorities subjected to the ramifications of climate change.

### **Council Policy Compliance**

The proposal listed in this report complies with Council's existing policy "Conferences, Seminars, Training and Induction Courses – Attendance by Elected Members".

### **Legislative Compliance**

This proposal does not conflict with any statutory or legislative obligations.

### **Delegation of Authority**

The Chief Executive Officer does not have delegated authority to authorise a proposal of this nature.

### **Relevant Precedents**

His Worship the Mayor has previously attended interstate conferences that relate to Climate Change.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council may elect not to send His Worship the Mayor to the National Climate Change Conference in Adelaide in February 2010.

### **Conclusion**

The attendance of His Worship the Mayor at the 2010 National Climate Change Conference will assist Council's understanding of current effects and future plans of the National Climate Change Taskforce.

### **Recommendation**

Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the National Climate Change Conference in Adelaide, South from 18 February to 19 February 2010.

### **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Cr Spencer.

Councillor Harrop left the chambers at this point in proceedings and was not present for the vote.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

### Committee Recommendation

Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the National Climate Change Conference in Adelaide, South from 18 February to 19 February 2010.

### **Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

#### **Council Decision 11/10**

*Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the National Climate Change Conference in Adelaide, South from 18 February to 19 February 2010.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.11 National Sea Change Conference – Byron Bay, New South Wales 26 February to 4 March 2010** *(was listed as Item 11.16 on the meeting agenda)*

<b>File Ref:</b>	A00963
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

The Annual Sea Change Conference will be held in Byron Bay, New South Wales from 26 February to 4 March 2010. It is proposed that His Worship the Mayor will represent Council at the conference. In accordance with the Council Policy the Mayor requires the permission of Council to travel interstate to attend the conference.

**Background**

Council has previously resolved to be a member of the National Sea Change Taskforce and has endorsed His Worship the Mayor and the Chief Executive Officer as its representatives at State and National Meetings.

This conference will provide delegates with information and ideas on issues of relevance including:

- Coastal Policies of both Federal Liberal and Labour
- Preparing Coastlines for Climate Change
- Planning for Population Growth
- Economic Drivers for Sea Change Communities
- Building a Sea Change knowledge Community
- Community Infrastructure
- Others

Study Field tours will include visits to Sites promoting affordable housing and a sense of place, as well as strategies to retain productive rural land and ageing, in coastal communities. The Conference is being hosted in Byron Bay, New South Wales.

In early February 2004, the Chief Executive Officer attended a Sea Change Summit in Maroochydore, Queensland, together with twenty six Chief Executive Officers from high growth coastal councils around Australia, to discuss the issue of sea change growth and the impact it is having on communities.

Sea Change councils are experiencing the highest growth rates in Australia. Whilst the trend towards coastal development is strongest in Queensland it is growing rapidly in Western Australia in places such as Wanneroo, Rockingham, Mandurah, Busselton, Bunbury and Augusta-Margaret River.

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

Around Australia there are a significant number of councils experiencing a variety of challenges due to population growth. It is believed that individually, such change would be difficult to manage. However, by working together, sharing information and combining resources much can be achieved to address long term issues in local communities.

The role of the Taskforce is to explore issues, foster research and work with State and Federal Governments as well as other interested bodies. It is considered that membership of the National Sea Change Taskforce could be well regarded by council's stakeholders not only due to the organisations role but also the no-partisan coordinated approach of the Taskforce.

### **Community Consultation**

Nil

### **Councillor/Officer Consultation**

Nil

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

Conference registrations, accommodation and attendance costs can be met from within the existing Councillor Conference Expenses Budget.

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

Keeping abreast of the National Sea Change Taskforce initiatives will assist in identifying economic, social, and environmental issues faced by local authorities subjected to the ramifications of growth and development that continue to be experienced around the country.

### **Council Policy Compliance**

The proposal listed in this report complies with Council's existing policy "Conferences, Seminars, Training and Induction Courses – Attendance by Elected Members".

### **Legislative Compliance**

This proposal does not conflict with any statutory or legislative obligations.

### **Delegation of Authority**

The Chief Executive Officer does not have delegated authority to authorise a proposal of this nature.

### **Relevant Precedents**

The City's Chief Executive Officer attended the 2004 Sea Change Summit in Maroochydore, Queensland. In May 2004, a workshop was held in Melbourne and was also attended by the Chief Executive Officer.

His Worship the Mayor attended the 2007 Sea Change Conference held in Marcoola Beach Queensland on 20 to 22 August.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council may elect not to send His Worship the Mayor to the Annual Sea Change Conference in New South Wales in February/March 2010.

### **Conclusion**

The attendance of His Worship the Mayor at the 2010 Sea Change Conference will assist Council's understanding of current effects and future plans of the National Sea Change Taskforce. A report will be provided to Council on the conference, and an assessment of whether the City should continue with its membership on the Sea Change Taskforce.

### **Recommendation**

Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the annual Sea Change Conference in Byron Bay, New South Wales from 26 February to 4 March 2010.

### **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Cr Leigh.

Councillor Harrop returned to the chambers during the discussion of this item. She was present for the vote.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

#### Committee Recommendation

Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the Annual Sea Change Conference in Byron Bay, New South Wales from 26 February to 4 March 2010.

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 12/10**

*Council endorses the attendance of His Worship the Mayor, Mr David Smith, at the Annual Sea Change Conference in Byron Bay, New South Wales from 26 February to 4 March 2010.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.12 Bunbury Tennis Club Incorporated – Proposed Renewal of Lease Over Portion of Hay Park (Reserve 30601, Lot 3001 On Deposited Plan 43554 Parade Road, Bunbury) (was listed as Item 11.18 on the meeting agenda)**

<b>File Ref:</b>	F00015
<b>Applicant/Proponent:</b>	Bunbury Tennis Club Incorporated
<b>Author:</b>	John Beaton, Manager Administration & Property Services
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

An application has been received from the Bunbury Tennis Club Inc. (“applicant”) seeking council’s consent to renew the Lease over portion of Hay Park Reserve 30601 (Lot 3001 on Deposited Plan 43554) Parade Road, Bunbury for a further five (5) years. A location plan is **attached** at Appendix 4.

**Background**

The applicant has occupied its current lease site since 1976. The land is comprised within Reserve 30601 (Lot 3001 on Deposited Plan 43554) and is held by the City of Bunbury under Management Order 1902/1967 Crown Land Record Volume 3129 Folio 866 with the power to lease for a term not exceeding twenty-one (21) years.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided “in principle” approval for the proposal subject to formal approval being granted on receipt of the Lease document.

The Lease has been extended to 31 March 2010 through the “Holding Over” clause of the current lease. The proposal to extend the term does not conflict with the Hay Park Feasibility Study short to medium development options for the location.

The applicant has complied with the provisions of the current lease, including its responsibilities to maintain and upkeep the courts at no cost to council.

The applicant has approximately 120 junior members and 140 senior members and continues to promote the venue for local participation as well as holding various tournaments and competitions on a wider scale.

Current Lease Details

Commencement:	24 January 2001
Term:	Seven (7) years
Expiry:	23 January 2008
Rental:	\$1,261.85 per annum inclusive of GST
Rent Review:	CPI annually
Outgoings:	Responsibility of the applicant
Insurance:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$5(M).

Special Conditions:	Lessee responsible for maintaining and upkeep of the courts and clubrooms.
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#### Proposed Renewal of Lease

Commencement:	1 December 2009
Renewed Term:	Five (5) years
Expiry:	30 November 2014
Rental:	\$1,500 per annum exclusive of GST and indexed annually by CPI
Rent Review:	Third anniversary date
Outgoings:	Responsibility of the lessee
Insurance:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Special Conditions:	Lessee responsible for maintaining and upkeep of the courts and clubrooms.
Document Preparation:	The applicant to pay full cost of document preparation and registration.

The City's Executive and the applicant have mutually agreed on the proposed term and conditions 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."*

##### Regional Outcomes

The applicant promotes opportunities for players from the Greater Bunbury Region to participate in the sport.

#### **Community Consultation**

In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 and subject to Council granting the renewal, the intention to enter into a Deed of Renewal of Lease for five (5) year will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, the Administration centre and on the City's website.

#### **Councillor/Officer Consultation**

Council officers have held discussion with the applicant and have mutually agreed on the term and conditions of the proposed extension of the lease.



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

The Lease rental has been calculated on the clubrooms and based on an independent valuer's assessment with the applicant responsible for all outgoings and maintenance to the courts.

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

The applicant is responsible for the routine maintenance and upkeep of the demised premises.

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

#### Economic Issues

The applicant has approximately 140 senior members and 120 junior members and holds a number of special events throughout the year which also attracts locals and visitors.

#### Social Issues

The applicant provides a venue for like-minded enthusiasts to meet and participate in the popular sport.

#### Environmental Issues

The activity does not conflict with the amenities of the area for passive recreation.

#### Heritage Issues

There are no known heritage issues to consider.

### **Council Policy Compliance**

There is no Council Policy relevant to this proposal.

### **Legislative Compliance**

The City will give notice of the intention to enter into a Deed of Renewal of Lease for five (5) years will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, the Administration centre and on the City's website.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided "in principle" approval for the proposal subject to formal approval being granted on receipt of the Lease document.

### **Delegation of Authority**

The Chief Executive Officer has the delegated authority of Council to negotiate the terms and conditions of an application for extension of a lease provided the settled

terms and conditions are presented to Council for approval before documentation is finalised.

It is proposed that the Chief Executive Officer be authorised to proceed with preparation and signing of the Lease.

### **Relevant Precedents**

Since 1976, Council has granted the applicant a lease over the demised premises. It is not proposed to consider any other option for the site in the short to medium term.

Council has considered applications from various community groups and organisations seeking to renew and/or extend the lease over the City's land holdings.

### **Options**

#### Option 1

Per the recommendation as listed in this report.

#### Option 2

Per the recommendation as listed in this report (with amendments as suggested by council members).

#### Option 3

Council refuses the proposal by the applicant to renew its lease over portion Hay Park Reserve 30601 (Lot 3001 on Deposited Plan 43554) Parade Road, Bunbury.

### **Conclusion**

The applicant has leased the site since 1976 and has satisfactorily fulfilled its obligations and responsibilities under the lease during this time. The applicant provides like-minded participation from local community members and visitors.

### **Recommendation**

Council agrees to enter into a Deed of Renewal of Lease with the Bunbury Tennis Club Inc. over portion Hay Park Reserve 30601 (Lot 3001 on Deposited Plan 43554) Parade Road, Bunbury for a term of five (5) years subject to the terms and conditions as specified in the report:

1. The Chief Executive Officer to proceed with preparation of the lease document subject to the approval of the Minister for Lands.
2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 granting the renewal will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, the Administration centre and on the City's website.

3. The Bunbury Tennis Club Inc. to pay all costs associated with the lease application including document preparation, registration and rental assessment.

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Steck, seconded Cr Spencer.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Council agrees to enter into a Deed of Renewal of Lease with the Bunbury Tennis Club Inc. over portion Hay Park Reserve 30601 (Lot 3001 on Deposited Plan 43554) Parade Road, Bunbury for a term of five (5) years subject to the terms and conditions as specified in the report:

1. The Chief Executive Officer to proceed with preparation of the lease document subject to the approval of the Minister for Lands.
2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 granting the renewal will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, the Administration centre and on the City's website.
3. The Bunbury Tennis Club Inc. to pay all costs associated with the lease application including document preparation, registration and rental assessment.

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 13/10**

*Council agrees to enter into a Deed of Renewal of Lease with the Bunbury Tennis Club Inc. over portion Hay Park Reserve 30601 (Lot 3001 on Deposited Plan 43554) Parade Road, Bunbury for a term of five (5) years subject to the terms and conditions as specified in the report:*

1. *The Chief Executive Officer to proceed with preparation of the lease document subject to the approval of the Minister for Lands.*
2. *In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 granting the renewal will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, the Administration centre and on the City's website.*

3. *The Bunbury Tennis Club Inc. to pay all costs associated with the lease application including document preparation, registration and rental assessment.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.13 Financial Statements - December 2009** (was listed as Item 11.19 on the meeting agenda)

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

**Summary/Background**

Financial Statements for the period ending 31 December 2009 have been circulated to members under separate cover. The statements include the following:

- Income Statement
- Balance Sheet
- Statement of Changes in Equity
- Statement of Financial Activity
- Statement of General Purpose Income
- Statement of Rating Information

The Financial Statements also contain a number of explanatory notes covering the following topics:

- Significant Accounting Policies
- Description of Programmes
- Net Current Assets
- Trade and Other Receivables
- Other Current Assets
- Trade and Other Payables
- Provisions
- Trust Funds
- Capital Expenditure
- Key Operating Expenditure & Income
- Loan Funds
- Reserve Funds
- Bunbury Timber Jetty
- Investment Funds

**Recommendation**

The Financial Statements for the period ending 31 December 2009 be received.

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Cr Spencer.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

The Financial Statements for the period ending 31 December 2009 be received.

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 14/10**

*The Financial Statements for the period ending 31 December 2009 be received.*

CARRIED  
12 Votes "For" / Nil Votes "Against"

**11.14 Items to be Noted (No Discussion) at the Council Committee Meeting** *(was listed as Item 11.21 on the meeting agenda)*

<b>File Ref:</b>	Various
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Various
<b>Executive:</b>	Various

Committee Members to refer to the report circulated under separate cover.

**Recommendation**

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

1. Title: Building Application/Development Approvals – November 2009 & December 2009  
Author: Gary Fitzgerald, Manager Development Services  
File: A00566
2. Title: Schedule of Accounts Paid for the Period 1 to 31 December 2009  
Author: David Ransom, City Accountant  
File: A00083

**Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Leigh, seconded Cr Steck.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

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

1. Title: Building Application/Development Approvals – November 2009 & December 2009  
Author: Gary Fitzgerald, Manager Development Services  
File: A00566
2. Title: Schedule of Accounts Paid for the Period 1 to 31 December 2009  
Author: David Ransom, City Accountant  
File: A00083

**Outcome – Council Meeting 9 February 2010**

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Major, seconded Cr Steck and adopted ('en bloc') to become the Council's decision on this matter:

**Council Decision 15/10**

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

1. *Title: Building Application/Development Approvals – November 2009 & December 2009  
Author: Gary Fitzgerald, Manager Development Services  
File: A00566*
  
2. *Title: Schedule of Accounts Paid for the Period 1 to 31 December 2009  
Author: David Ransom, City Accountant  
File: A00083*

CARRIED  
12 Votes "For" / Nil Votes "Against"



**11.15 Proposed Change of Use from 'Consulting Rooms' to 'Medical Centre' - Lot 22 (No. 12) Prosser Street, South Bunbury** *(was listed as Item 11.6 on the meeting agenda)*

<b>File Ref:</b>	P08010
<b>Applicant/Proponent:</b>	Victoria West
<b>Author:</b>	Lindsay Bergsma, Planning Officer
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

Council has received a development application from Victoria West for a change of use from 'Consulting Rooms' to 'Medical Centre' for Lot 22 (No. 12) Prosser Street, South Bunbury.

The subject site is zoned Residential (R30) within which a medical centre is an 'A' use. The proposal was advertised and two (2) submissions were received. It is for this reason that the proposal is being referred to Council for determination.

**Background**

The subject land is currently zoned Residential (R30) and there is no intention to change the zoning. The existing building on site is currently approved as 'Consulting Rooms' use under the City's Town Planning Scheme No. 7 (TPS No. 7) and is currently being used as such. The existing business on site is the Bunbury Natural Health Centre which practises naturopathy. The business aims to allow people to access information about, and improve their health through, naturopathy.

A location plan of the subject lot is **attached** at Appendix 5.

The applicant by means of this application now wishes to increase the number of consulting rooms on site to three which falls under a new land use category under the TPS No. 7, that of 'Medical Centre', which is defined as a *"premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling)."* A medical centre in a residential zone is an 'A' use under the City's current Town Planning Scheme meaning this is a use that is not permitted unless the local government exercises its discretion and grants planning approval after advertising the proposal for public comment.

In accordance with the Scheme requirements, the proposal was advertised for 21 days and two (2) submissions were received. The two submissions have raised a number of concerns which are discussed later in this report.

Pursuant to the City's Local Planning Policy – Development Applications Assessment Processes: Rights of the Applicant and the Community, *"Upon closure of the advertising period, all submissions are [to be] compiled and incorporated into Minutes item to Council for their consideration."* This therefore is the purpose of this report.

A planning approval, following advertising (and no submissions being received by the City), was previously issued for the subject site in 2007 for a change of use from a residential use to a consulting rooms use. Following this (in 2009) a formal complaint was submitted to the City regarding the subject site raising concerns about the number of people using the site and parking issues (lack of parking etc). The City's Compliance Officer who dealt with the complaint, discussed the relevant issues with the landowner and as a result this planning application has been lodged with the City.

### **Proposal**

The proposal is to change the current 'Consulting Rooms' use at Lot 22 (No. 12) Prosser Street, South Bunbury to 'Medical Centre'. Fundamentally, the same naturopathy business is proposed to operate from the site as it is currently except with an increase in the number of consulting rooms/ practitioners to a total of three. The existing building and crossover on site are to remain (without modifications) but twelve (12) new car parking bays are proposed on site.

The site plan/ floor plan is **attached** at Appendix 6.

### Submissions

The proposal was advertised for a period of three weeks in which time two submissions were received. These submissions will now be discussed (which are also **attached** in full in the schedule of public submissions at Appendix 7, along with Planning Services comments).

The fundamental issues raised in both submissions can be summarised as follows-parking issues (number of vehicles visiting the subject site as well as parking on the street and verge) and operating hours of the business.

In relation to parking issues, there are currently not enough parking spaces provided on site to accommodate the number of vehicles that come to the site. This has resulted in vehicles parking on the street and verge areas. With three practitioners working on site, the TPS No. 7 requires the provision of twelve car parking bays on site. The number of parking bays proposed as part of the subject planning application is twelve bays and therefore the proposal complies with the Scheme requirement. With the provision of twelve parking bays on site, there will be no need for vehicles to park on the street or the verge.

The applicant has indicated that she has received quotes in relation to the proposed car park works and plans for the work to be carried out as soon as possible (after approval).

Parking proposed as part of any planning application is subject to set Engineering requirements (Australian Standards etc). If the current proposal was to be approved, it would be subject to a condition stating compliance with the Australian Standards which gives details on the minimum parking bay sizes, manoeuvring depths, number of parking bays for people with disabilities etc.

The operating hours of the business is another concern raised in the submissions received by the City. The submitters have stated that there have been instances

where the business was operating outside of “normal” office hours. In discussions with the applicant, she has confirmed that although this is not the norm, there has been times when she has had to work later to complete various tasks. However, currently there are no regulations or restrictions regarding specific business hours.

Noise issues, on the other hand, are dealt with by the City. The City’s Health Department have controls in regards to noise and this is governed through the Environmental Protection (Noise) Regulations 1997.

Overall however, in regards to the operating hours of the business, it could be argued that the impacts of the applicant (or other practitioners) working later in the evening (or early in the morning) on site would be no greater than standard domestic activities in a residential area. Also, due to the nature of the activities conducted on site, there should not be any unreasonable level of noise generated. However, to guarantee that the neighbours of the subject lot are not detrimentally affected by the business, a condition may be imposed on planning approval (if granted), to ensure that reasonable office hours are maintained.

#### Planning Policies

The objectives of the City’s Local Planning Policy – Non-Residential Development in or Adjacent to Residential Areas state, to facilitate non-residential uses adjoining neighbourhood or local centres where the local residential amenity is not adversely affected and to facilitate the establishment of low key business uses where the emphasis is on retaining the residential character and use of the site as an integral part of the proposal.

The Policy states that non-residential uses in residential zones will ideally be supported to locate within ‘frame areas’, being those areas adjacent to identified commercial areas. The subject site is within a ‘frame area’ identified within the Policy.

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

The City’s 2007–2012 Strategic Plan states that *“The City will ensure that it maintains a comprehensive and fully integrated planning system to meet community expectations.”* In this case, the proposal has been considered in the context of its compliance with current Scheme and other requirements and the submissions received by the City have been evaluated.

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

#### **Community Consultation**

The proposal was advertised for a three week period. Two (2) submissions were received during the advertising period.

### **Councillor/Officer Consultation**

The proposal was received on 1 December 2009, and it was tabled for the Development Coordinating Unit (DCU) meeting of 3 December 2009 during which time some issues were discussed among the relevant Departments.

Following the DCU meeting, the proposal was prepared for advertisement in accordance with scheme requirements.

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

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

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

Not applicable.

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

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

### **Council Policy Compliance**

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

### **Legislative Compliance**

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

### **Delegation of Authority**

The City's Local Planning Policy- Development Applications Assessment Processes: Rights of the Applicant and the Community requires for an application to automatically be referred to Council for a decision when submissions are received as the result of public advertising.

### **Relevant Precedents**

Council at its ordinary meeting of 13 December 2005 considered a proposed change of use from 'Residential- Single House' to 'Consulting Rooms' at Lot 2, No. 159 Spencer Street which is outside the 'frame areas' and, although the proposal was recommended for refusal, approved the proposal.

Also, Council at its ordinary meeting of 22 May 2007 considered a proposed change of use from 'Residential - Single House' to 'Consulting Rooms' at Lot 1, No. 37A Forrest Street which is outside the 'frame areas' and approved the proposal in line with the Recommendation.

### **Options**

#### Option 1

Per the Recommendation listed in this report.

#### Option 2

Refuse the proposal. Should Council resolve to proceed with this option, a suggested format for such action is as follows:

Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves to:

1. Not grant planning approval in respect of the proposed change of use from 'Consulting Rooms' to 'Medical Centre' for Lot 22 (No. 12) Prosser Street, South Bunbury on the following grounds:
  - The proposed change of use is likely to detrimentally affect the amenity of the area in which it is proposed to be located.
2. Advise the applicant and submitters of Council's decision.

### **Conclusion**

After the proposal was advertised, two submissions were received by the City. The issues raised have been evaluated and discussed in this report. The car parking issues raised will be resolved in the construction of the proposed twelve car parking bays on site. The proposed parking complies with the Scheme and when constructed, there will be no need for cars to park on the verge or the street. The applicant has also indicated that she is in a position to begin the car park works as soon as approval is granted.

There are also no foreseeable issues in regards to the proposed medical centre land use. The City's Local Planning Policy – Non-Residential Development in or Adjacent to Residential Areas states that non-residential uses in residential zones will ideally be supported to locate within 'frame areas' which is the case with this proposal. Also, due to the nature of the work conducted on site there should not be any unreasonable level of noise generated and it could be argued that the impacts of the practitioners working on site would be no greater than standard domestic activities in a residential area. It could in fact be argued that the impact would be to a lesser extent in that the business would not operate every day of the week, nor all around the clock. Therefore, approval of the proposal is recommended and in order to guarantee that reasonable office hours are maintained for the business, a condition is proposed be imposed on the grant of planning approval in this regard.

### **Recommendation**

Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves to:

1. Grant planning approval for the proposed change of use from 'Consulting Rooms' to 'Medical Centre' for Lot 22 (No. 12) Prosser Street, South Bunbury subject to the following conditions:
  - Standard daily operating hours of the Medical Centre are to be between 7am and 7pm (excluding Saturday and Sunday). Saturday standard operating hours to be between 7am and 12pm.
  - All other applicable development conditions to the satisfaction of the Manager Development Services.
2. Advise the applicant and submitters of Council's decision.

### **Outcome - Council Committee Meeting 2 February 2010**

Deputy Mayor Cr Kelly disclosed an impartiality/proximity interest in this item as he is friends of the proponent and he also owns property approximately 50 metres from the business. He left the chambers (6.18pm) for the duration of the discussion and was not present for the vote on this matter.

The Mayor called for any public speakers.

The owner of the property, Victoria West was available to answer any questions that the members had. She asked that the trading hours for the Saturday mornings to be amended from 7am – 12pm to become 8am – 2pm.

During discussion, the following points were raised:

- The issue of on-street parking would be solved once the carparks are completed.
- Whether there would be access to the back lane way for vehicles to exit the premises. The only entrance and exit for vehicles is by way of Prosser Street. There were at this stage no plans to access the lane way.
- The type of "Medical" procedures that were going to be performed on the premises. There are no surgery procedures taking place.

The Mayor asked if there was anyone in the gallery opposed to the issue. Mr Bruce Olsen, 14 Prosser Street addressed the committee with his concerns and questions as to the time frame of the carparking spaces. He made mention of an issue with the state of disrepair the back fence was in as there were a number of people accessing the lane way late at night and cutting through the property via the fence which was causing his dogs and neighbouring dogs to bark at all hours of the night. He also mentioned that there had been break-ins via the laneway.

Ms West stated that the contractor who was putting in the parking bays told her that once the approval goes through then it would be two (2) weeks for the car park to be completed. She stated that she would look into fixing up the back fence and possibly putting a gate in.

The recommendation (as amended) was moved Cr Major, seconded Cr Harrop.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves to:

1. Grant planning approval for the proposed change of use from 'Consulting Rooms' to 'Medical Centre' for Lot 22 (No. 12) Prosser Street, South Bunbury subject to the following conditions:
  - Standard daily operating hours of the medical centre are to be between 7am and 7pm (excluding Saturday and Sunday). Saturday standard operating hours to be between 8am and 2pm.
  - All other applicable development conditions to the satisfaction of the manager development services.
2. Advise the applicant and submitters of council's decision.

**Outcome - Council Meeting 9 February 2010**

Deputy Mayor Cr Kelly disclosed an impartiality/proximity interest in this item as he is friends of the proponent and he also owns property approximately 50 metres from the business. He left the chambers (6.28pm) for the duration of the discussion and was not present for the vote on this matter.

The recommendation (as printed) from the Council Standing Committee was moved Cr Major, seconded Cr Steck.

During discussion, the following questions were raised:

- If the owner decided to sell the property or business what would happen to the 'use', does it revert back to the original classification? If the 'use' is maintained it can continue should the owners sell the business/property.
- How big can the Medical Centre get? Can they knock down the house or add on a room? No. The development is subject to a plan and any deviation from that plan it will need a new application.
- What is the difference between 'Consulting Rooms' and 'Medical Centre'? The number of rooms defines the 'use' and creates a different level of scrutiny.

The following amendment was moved Cr Slater, seconded Cr Steele:

Add in a new point 2 which reads 'That consideration be given to entrance only from Prosser Street with all exits via rear lane' and make the existing point 2, point 3.

The amendment was put to the vote and carried 5 votes "for" to 6 votes "against". The amendment was lost.

The Mayor put the original motion to the vote and adopted to become the Council's decision in this matter.

**Council Decision 16/10**

*Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves to:*

1. *Grant planning approval for the proposed change of use from 'Consulting Rooms' to 'Medical Centre' for Lot 22 (No. 12) Prosser Street, South Bunbury subject to the following conditions:*
  - *Standard daily operating hours of the medical centre are to be between 7am and 7pm (excluding Saturday and Sunday). Saturday standard operating hours to be between 8am and 2pm.*
  - *All other applicable development conditions to the satisfaction of the manager development services.*
2. *Advise the applicant and submitters of council's decision.*

CARRIED  
8 Votes "For" / 3 Votes "Against"



**11.16 Proposed Change of Use From “Residential R5” to “Community Purpose”, 72 Brittain Road** *(was listed as Item 11.7 on the meeting agenda)*

<b>File Ref:</b>	P01102
<b>Applicant/Proponent:</b>	Insitu Planning and Design
<b>Author:</b>	Paul Davies, Planning Consultant
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

An application has been received from Insitu Planning and Design on behalf of RA and MP Nock for a change of use of an existing single residence at 72 Brittain Road from “Residential R5” to “Community Purpose”.

The application originally proposed change of use to Medical Consulting Rooms. The applicant has subsequently advised that the proposed use can be accommodated as a Community Purpose rather than Medical Consulting rooms. On this basis, it is recommended that the proposed use be approved as Community Purpose.

The applicants advise that the SolarisCare Foundation are prospective purchasers of the property subject to approval being granted for use as Community Purpose.

The subject premises are proposed to be operated by trained volunteers and provide support for cancer patients including informal discussions, complementary therapies and access to extensive information resources. (Refer letter from Insitu Planning and Design dated 14 December 2009 **attached** at Appendix 8)

The applicant advises that the site is located 550 metres from the Park Centre Shopping Centre and 750 metres from the Bunbury Regional and St John of God Hospitals. This makes it easy for patients and volunteers to travel between these facilities.

The subject property is located within an equestrian precinct specifically created for residential and equine activities predominantly associated with the adjacent Bunbury Turf Club and Bunbury Trotting Club. Approval of the use as Community Purpose may reduce the potential to create a precedent for other Medical facilities in the precinct.

The proposed location of the use is not consistent with Local Planning Policy – Non Residential Development in or adjacent to Residential areas. The policy states that uses identified as “A” in a Residential zone “*will ideally be supported within frame areas*” – being those areas adjacent to identified commercial areas.

Whilst the subject land is not located in a frame area the proposed use is considered a very worthy proposal that will provide a valuable service for the Bunbury Community and the South West Region.

## Background

An application has been received from Insitu Planning and Design on behalf of RA and MP Nock for a change of use of an existing single residence at 72 Brittain Road from "Residential R5" to "Community Purpose".

The application originally proposed change of use to Medical Consulting Rooms. The applicant subsequently advised that the proposed use could be accommodated as a Community Purpose rather than Medical Consulting rooms. On this basis, it is recommended that the proposed use be approved as Community Purpose.

The applicants advise that the SolarisCare Foundation are prospective purchasers of the property subject to approval being granted for use as Community Purpose.

The applicants advise that the Solaris Foundation is a not-for-profit volunteer organisation supported by hospitals and funded by community donations. The Foundation currently has facilities located within Sir Charles Gairdner Hospital and St John of God Hospital at Subiaco.

The SolarisCare Foundation was founded by Dr David Joske, head of the Department of Haematology, in September 2001 for the specific purpose of providing care to all people with cancer, their families and carers in Western Australia.

The subject premises are proposed to be operated by trained volunteers and provide support for cancer patients including informal discussions, complementary therapy such as Acupuncture, Aromatherapy, Bowen Therapy, Meditation, Healing touch, Kinesiology, Massage and other therapies and access to extensive information resources.

The applicants advise that the site was selected by SolarisCare due to the large size of the block and tranquil location compared to other areas such as Spencer Street. The site provides a more relaxed environment for patients than the more sterile medical facilities provided at hospitals and medical centres which is important for treatment of cancer sufferers.

Also, the applicant advises that the site is located 550 metres from the Park Centre Shopping Centre and 750 metres from the Bunbury Regional Hospital and St John of God Hospital. This makes it easy for patients and volunteers to travel between these facilities.

The site is currently developed with a three bedroom dwelling and a 3 car colourbond garage. The applicants indicate that initially only one consulting room will be required, although it is anticipated that ultimately two consulting rooms will be required.

In accordance with Town Planning Scheme No 7 four car parking bays are required for each consulting room. On this basis, 8 car parking bays would be required to be provided, however 12 bays are proposed. Hence the proposed car parking exceeds the Town Planning Scheme requirements.

A copy of the proposed site plan showing the existing residence and proposed car parking layout is **attached** at Appendix 9.

The lot has an area of 2006m<sup>2</sup> and is located in the Residential R5 zone. The existing subdivision was specifically created as an equine precinct to provide a residential area including provision for horses adjacent to the Bunbury Turf Club and Bunbury Trotting Club. On this basis, the majority of lots in the area include stables and facilities for horses.

In the central area of the subdivision is a communal area for exercising horses. It could be considered that encroachment of medical facilities into this area would create a precedent for other development detracting from the purpose of the area for residential use and equine facilities.

Notwithstanding the above the subject land is zoned "Residential R5" and the use classes "Medical Consulting rooms" and "Community Purpose" are an "A" use. An "A" use is a use that may be approved by Council subject to advertising for public comment.

The proposal has been advertised for public comment as Medical Consulting Rooms and one submission has been received. The submission requests that the applicant provide a new fence 2.1 metres high along the boundary and that the applicant provide a written agreement that the applicants acknowledge the existing horse use and potential impacts.

The applicants advise that they will provide a new boundary fence and they acknowledge the equine nature of the locality and the associated odour and noise and advise that they will not complain about these to Council or adjoining landowners.

Further, the applicants advise that negotiations with the other adjoining owner (70 Brittain Road) have resulted in agreement for the dividing fence to be increased to 1.8 metres.

In accordance with Local Planning Policy – "Non Residential Development in or adjacent to Residential areas", uses identified as A in a Residential zone will ideally be supported within frame areas – being those areas adjacent to identified commercial areas.

The subject land is not located in a frame area. The Council has previously not generally supported medical consulting rooms located outside of frame areas. The proposed use is essentially non-for-profit volunteer organisation and as such can be considered as a Community Purpose.

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

The proposed facility will provide a valuable medical facility for the Bunbury community and the South West Region. The applicant advises that strategically the site is located close (within 750 metres) of the St John of God Hospital and Bunbury Regional Hospital.

### **Community Consultation**

The application has been advertised as Medical Consulting Rooms for a 21 day period and one submission has been received from an adjoining owner. The adjoining owner 74 Brittain Road requests that the proponent install a new fence to a height of 2.1 metres on the boundary to avoid overlooking the adjoining property.

The submission also requests that the proponent provide a written agreement acknowledging that the site may be affected by the existing adjoining horse activities including dust, noise, flies and odour.

The applicants advise that they will provide a new boundary fence and they acknowledge the equine nature of the locality and the associated odour and noise and advise that they will not complain about these to Council or adjoining landowners.

Further the applicants advise that negotiations with the other adjoining owner 70 Brittain Road have resulted in agreement for the dividing fence to be increased to 1.8 metres.

### **Councillor/Officer Consultation**

The proposal has been considered by officers of Planning Services.

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

There are no Financial and Budget implications from the proposal.

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

Not applicable

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

The proposed facility has potential to provide economic benefit to the City with patients travelling to the City from throughout the South West. From a social perspective the facility will provide a valuable service for the local community.

From an Environmental perspective potential issues with impacts from adjoining horse activities can be managed. There are no Heritage issues affecting the proposal.

### **Council Policy Compliance**

In accordance with Local Planning Policy – Non Residential Development in or adjacent to Residential areas. Uses identified as A in a Residential zone will ideally be supported within frame areas – being those areas adjacent to identified commercial areas.

The subject land is not located in a frame area. The Council has previously generally not supported medical consulting rooms located outside of frame areas. It is considered that the proposed use can be supported as a Community Purpose.

### **Legislative Compliance**

In accordance with Town Planning Scheme No 7 provisions an "A" use is required to be advertised for public comment. The proposed development has been advertised in accordance with Scheme requirements.

### **Delegation of Authority**

There is no delegation of Authority in this instance.

### **Relevant Precedents**

There are no relevant precedents in this regard.

### **Options**

Council resolve:

#### Option 1

Per the recommendation listed in this report.

#### Option 2

1. Under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to refuse the application from Insitu Planning and Design on behalf of RA and MP Nock for change of use of 72 Brittain Road from "Residential R5" to "Community Purpose" for the following reasons:
  - The subject land is located within an equine precinct specifically created for residential use with equine activities predominantly associated with the adjacent Bunbury Turf Club and the Bunbury trotting Club. The proposed use will encroach on the area available for residential and equine activities in the area and will create an undesirable precedent for other uses in the area which would further detract from the area available for residential and equine activities in the area.
  - The proposed location of the use is not consistent with Local Planning Policy – Non Residential Development in or adjacent to Residential areas uses identified as A in a Residential zone will ideally be supported within frame areas – being those areas adjacent to identified commercial areas.
2. Advise the proponent that whilst the proposed use is considered a very worthy proposal that will provide a valuable service for the Bunbury Community and the South West, they are encouraged to seek a more suitable location for the proposed facility.

## **Conclusion**

The application originally proposed a change of use to Medical Consulting Rooms. The applicant has subsequently advised that the proposed use can be accommodated as a Community Purpose rather than Medical Consulting rooms. On this basis, it is recommended that the proposed use be approved as Community Purpose.

The subject property is located within a special subdivision precinct specifically created for residential and equine activities predominantly associated with the adjacent Bunbury Turf Club and Bunbury Trotting Club. It is considered that location of medical facilities into this precinct could create a precedent for other uses detracting from the purpose of the area for residential use and equine facilities.

The proposed location of the use is not consistent with Local Planning Policy – “Non Residential Development in or adjacent to Residential areas”, uses identified as A in a Residential zone will ideally be supported within frame areas – being those areas adjacent to identified commercial areas.

The subject land is not located in a frame area. The Council has previously not generally supported medical consulting rooms located outside of frame areas. The proponent is essentially a not for profit volunteer organisation and as such could be considered as a Community Purpose.

Approval of the use as Community Purpose may reduce the potential to create a precedent for other Medical facilities in the precinct.

## **Recommendation**

1. That Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to grant approval to the application from Insitu Planning and Design on behalf of RA and MP Nock for change of use of 72 Brittain Road from “Residential R5” to “Community Purpose” subject to conditions as deemed appropriate by the Senior Manager Development Services.

## **Outcome - Council Committee Meeting 2 February 2010**

The Mayor asked if there were any public speakers.

Mr David Edwards, Manager Solaris Care Foundation addressed the Committee and answered any questions that they had.

During discussion, the following points were raised:

- Solaris Care Foundation is not-for-profit organisation that provides a counselling and therapy service, which is an addition to the mainstream medical treatments received, for cancer sufferers and their carers/families.
- At present, they have 140 volunteers at their premises in Perth and are hoping to get the same here.

- They have no issues with the noise, dust and smell that comes from being situated in the horse stable area. The only known issue from neighbours was the height of the fence which they will comply with.
- There are no medical procedures practiced on the premises. They do not practice alternative medicine. They offer therapy and counselling as part of the wholistic treatment. The therapy's that are on offer are massage, reiki, pain management etc.
- The CEO of St John of God has indicated that there is a lack of space at the South West Health Campus for this type of service.
- While it would be beneficial to make the area surrounding the Health Campus a medical hub it is not practical from a development point of view due to lack of land/buildings in the area.

Cr Slater moved that the motion be "put". The procedural motion was put to the meeting and was carried.

The recommendation (as printed) was moved Cr Major, seconded Cr Harrop.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

A request was made that the votes be recorded:

For: Mayor D Smith, Deputy Mayor Cr Kelly, Cr Steck, Cr Whittle, Cr Steele, Cr Slater, Cr Harrop, Cr Spencer, Cr Major  
Against: Cr Jones, Cr Leigh

#### Committee Recommendation

That Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to grant approval to the application from Insitu Planning and Design on behalf of RA and MP Nock for change of use of 72 Brittain Road from "Residential R5" to "Community Purpose" subject to conditions as deemed appropriate by the Senior Manager Development Services.

#### **Outcome - Council Meeting 9 February 2010**

Cr Punch disclosed an impartiality interest in this item but elected to stay for the discussion and vote on this issue.

The recommendation (as printed) from the Council Standing Committee was moved Cr Steck, seconded Cr Major.

During discussion, the following points were raised:

- Community consultation (as raised in public question time) became an issue. It was confirmed that a newspaper advertisement was lodged and it was advertised for a period of four (4) weeks. There was a sign displayed on the property notifying the public of the intention.

Cr Jones moved a procedural motion (City of Bunbury Standing Orders 15.11) that the motion be referred back to Committee, seconded Cr Leigh. Cr Jones believed that there was a lack of community consultation and that by moving back to Committee will give Council staff more time to consult the local community.

His Worship the Mayor stated that by taking the motion back to the Committee gives the impression that Solaris is not welcome in Bunbury which is not the case. He asked the question "What will Council gain by taking it back to Committee?"

The procedural motion was put to the vote: 3 Votes "For" / 9 Votes "Against". The motion was lost. It was asked that the votes be recorded as follows:

For: Deputy Mayor Cr Kelly, Cr Jones, Cr Leigh,  
Against: Mayor D Smith, Cr Major, Cr Steele, Cr Slater, Cr Harrop, Cr Spencer,  
Cr Whittle, Cr Punch, Cr Steck

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

**Council Decision 17/10**

*That Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to grant approval to the application from Insitu Planning and Design on behalf of RA and MP Nock for change of use of 72 Brittain Road from "Residential R5" to "Community Purpose" subject to conditions as deemed appropriate by the Senior Manager Development Services.*

CARRIED  
10 Votes "For" / 2 Votes "Against"

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Deputy Mayor Cr Kelly, Cr Steck, Cr Whittle, Cr  
Steele, Cr Slater, Cr Harrop, Cr Spencer, Cr Major  
Against: Cr Jones, Cr Leigh



**11.17 Appointment of Community Representatives to Various Committees of Council**  
(was listed as Item 11.8 on the meeting agenda)

<b>File Ref:</b>	A00215
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

It is proposed to appoint nominees to the position of 'Community Representative' on the following committees:

- Art Collection Management Committee
- Big Swamp Wildlife Park Committee
- Bunbury Airport Committee
- Bunbury Environment & Sustainability Advisory Committee ('BESAC')
- Bunbury Region Roadwise Committee
- Bunbury-Setagaya Sister Cities Committee
- City Promotions Committee
- Community Access Committee
- Heritage Advisory Committee
- Youth Advisory Council

A Confidential Report containing a copy of all nominations received has been provided to members **under separate cover**.

A copy of each committee's *Terms of Reference* has also been provided in a report **under separate cover**.

**Background**

The subject committees were re-established by Council decision on 24 November 2009. Councillors, Council Officers, Ex-officio Members and Industry Representatives (where required) were appointed to each committee at that time. However, instead of automatically re-appointing community representatives to the committees, the Council requested that the City advertise for nominations.

A display advertisement calling for nominations from members of the public was advertised in the South Western Times and Bunbury Herald Newspapers on 3 and 8 December 2009. The notice was posted on notice boards at the City's Customer Service Centre and Libraries as well as the City of Bunbury website.

Nominations were also sought from community representatives that had served on the committees for the 2007/09 term.

Nominations closed on Friday, 15 January 2010 and a list of the nominations received (together with a copy of each submission) is contained in the Confidential Report that has been provided to members under separate cover. It is proposed that all nominees be appointed **subject to the following**:

1. Bunbury Airport Committee

The community membership on this committee is mainly airport leaseholders in line with a Council Decision made in 2005. General representation was permitted in early 2008 but restricted to one position as the committee deals with issues pertaining mainly to operational and leasing matters at the airport.

It is recommended that the nomination from Mr Iain Farmer (an experienced pilot, former Chairman of the committee and a member of the Australian Federation of Air Pilots) fill the single 'community member' position due to his wealth of aviation-related knowledge. Accordingly, it is recommended that the nomination from Mr Arpad Mencshelyi be rejected on this occasion.

2. Heritage Advisory Committee

As councillor membership of this committee was increased from 2 to 3 councillors on 24 November 2009, it is recommended that to retain the 'balance' between community and councillor representation, community member positions on the committee be increased from 4 to 5 positions to permit appointment of Mr Richard Sargeant.

**Strategic and/or Regional Outcomes**

The City's Strategic Plan 2007-2012 is based around six objectives - the following of which are relevant to the recommendation in this report:

1. strengthen the City of Bunbury's governance and leadership, and;
2. develop social capital.

**Community Consultation**

The extent of community consultation undertaken is stated under the heading "Background" above.

**Councillor/Officer Consultation**

Executive Officers for each committee were consulted throughout the nomination process.

**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**

Not applicable.

### **Council Policy Compliance**

Policy CEO7 (adopted by Council on 27 November 2007) sets out guidelines for establishment and operation of advisory committees but is non-specific concerning appointment of community members.

### **Legislative Compliance**

Section 5.9(2) 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 for each community representative is as 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 listed in this report.

#### Option 2

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

### **Recommendation**

#### PART A

1. Community membership on the Heritage Advisory Committee be increased from 4 to 5 members to retain the balance of Council and community representation.
2. Mr Arpad Mencshelyi be thanked for his interest in nominating for the position of community member on the Bunbury Airport Committee and advised that on this occasion, his nomination was not successful.

## PART B

Executive Officers for the following committees to contact the nominees listed and advise them that they have been appointed to the position of 'Community Representative' (tenure of membership to be as specified in Section 5.11 of the Local Government Act 1995):

1. Art Collection Management Committee

- 1.1 Helena Sahn
- 1.2 Rosemary Louise Nicholson
- 1.3 Dr Lorna Kaino
- 1.4 Tresslyn Smith
- 1.5 Kathryn Dehring

2. Big Swamp Wildlife Park Committee

- 2.1 Michael Eric Morgan
- 2.2 David Lindsay Grigg

3. Bunbury Airport Committee

*Leaseholders*

- 3.1 Paul Coffey
- 3.2 Brendan Francis Watts
- 3.3 Alex Karatamoglou
- 3.4 Robert Main
- 3.5 Michael Fletcher
- 3.6 Blair Howe

*Community Representative*

- 3.7 Iain Dixon Ward Farmer

4. Bunbury Environment & Sustainability Advisory Committee ('BESAC')

- 4.1 Bernhard Bischoff
- 4.2 Philip John Smith
- 4.3 Hrimnir Benediktsson
- 4.4 Chris Gibbs
- 4.5 Terrina Rae Earl

5. Bunbury Region Roadwise Committee

- 5.1 Paul Cassidy
- 5.2 Brad Brooksby
- 5.3 Richard Oborn

6. Bunbury-Setagaya Sister Cities Committee

- 6.1 Andreas (Harry) Ostendorf
- 6.2 Suzanne Ellis
- 6.3 David Lawrence Powell
- 6.4 David Brian Byatt

- 6.5 Kazuyuki Shimada
- 6.6 Emi Shimada
  
- 7. City Promotions Committee
  
- 6. Kerstin Jackson
- 7. John Claman Carter
- 8. Amanda Yip
  
- 8. Community Access Committee
  
- 8.1 Michael David Cooper
- 8.2 Andrew McLean
- 8.3 Gerald O'Sullivan
- 8.4 Katie Suzanne Soulos
- 8.5 Ruth McCourt
  
- 9. Heritage Advisory Committee
  
- 9.1 Bernhard Bischoff
- 9.2 Morris Johnston
- 9.3 Phyllis Ann Barnes
- 9.4 Peter Suckling
- 9.5 Richard John Sargeant
  
- 10. Youth Advisory Council

Kyra Brown, 5 Simpson Avenue, Bunbury

NOTE: AN ABSOLUTE MAJORITY VOTE WILL BE REQUIRED AT THE COUNCIL MEETING.

#### **Outcome - Council Committee Meeting 2 February 2010**

The Mayor asked if there were any members of the public that wished to speak on this item. Mr Arpad Mencshelyi, 6 Sampson Road, Bunbury asked the Committee to reconsider his nomination for the Bunbury Airport Advisory Committee and handed the members an excerpt of his resume outlining some of his experience. The Executive Manager City Services was asked why Mr Mencshelyi's nomination was not successful. He replied that it was felt that Mr Iain Dixon Ward Farmer had more experience.

It was asked why there was only one person nominated on the Youth Advisory Council. Executive Manager City Life suggested that maybe at the time of the item being prepared that was the only one received but he can assure the members that there were more than the one person and that the names will be supplied in time for Council's meeting 9 February 2010.

A memo was circulated to members requesting an amendment to add two (2) names to the Bunbury-Setagaya Sister Cities Committee as the nominations were received late.

The recommendation (as amended) was moved Cr Major, seconded Cr Slater.

It was requested that the motion be voted on in separate parts.

Cr Major requested that the vote on Part B be taken without the Bunbury-Setagaya Sister Cities Committee and for it to be voted on separately.

Part A: 11 votes "for" / Nil votes "against"

Part B (without Bunbury-Setagaya): 11 votes "for" / Nil votes "against"

Bunbury-Setagaya Sister Cities Committee moved Cr Slater, seconded Deputy Mayor Cr Kelly.

Bunbury-Setagaya: 10 votes "for" / 1 vote "against"

The motion (as amended) was put to the vote and adopted to become the committee's recommendation on this issue.

Cr Major requested that his vote against the Bunbury-Setagaya Sister Cities Committee be recorded.

Committee Recommendation

PART A

1. Community membership on the Heritage Advisory Committee be increased from 4 to 5 members to retain the balance of Council and community representation.
2. Mr Arpad Mencshelyi be thanked for his interest in nominating for the position of community member on the Bunbury Airport Committee and advised that on this occasion, his nomination was not successful.

PART B

Executive Officers for the following committees to contact the nominees listed and advise them that they have been appointed to the position of 'Community Representative' (tenure of membership to be as specified in Section 5.11 of the Local Government Act 1995):

1. Art Collection Management Committee
  - 1.1 Helena Sahn
  - 1.2 Rosemary Louise Nicholson
  - 1.3 Dr Lorna Kaino
  - 1.4 Tresslyn Smith
  - 1.5 Kathryn Dehring
2. Big Swamp Wildlife Park Committee
  - 2.1 Michael Eric Morgan
  - 2.2 David Lindsay Grigg

3. Bunbury Airport Committee

*Leaseholders*

- 3.1 Paul Coffey
- 3.2 Brendan Francis Watts
- 3.3 Alex Karatamoglou
- 3.4 Robert Main
- 3.5 Michael Fletcher
- 3.6 Blair Howe

*Community Representative*

- 3.7 Iain Dixon Ward Farmer

4. Bunbury Environment & Sustainability Advisory Committee ('BESAC')

- 4.1 Bernhard Bischoff
- 4.2 Philip John Smith
- 4.3 Hrimnir Benediktsson
- 4.4 Chris Gibbs
- 4.5 Terrina Rae Earl

5. Bunbury Region Roadwise Committee

- 5.1 Paul Cassidy
- 5.2 Brad Brooksby
- 5.3 Richard Oborn

6. Bunbury-Setagaya Sister Cities Committee

- 6.1 Andreas (Harry) Ostendorf
- 6.2 Suzanne Ellis
- 6.3 David Lawrence Powell
- 6.4 David Brian Byatt
- 6.5 Kazuyuki Shimada
- 6.6 Emi Shimada
- 6.7 Valda Rose-Marie Smith, OAM
- 6.8 Pauline Vukelic

7. City Promotions Committee

- 7.1. Kerstin Jackson
- 7.2 John Claman Carter
- 7.3 Amanda Yip

8. Community Access Committee

- 8.1 Michael David Cooper
- 8.2 Andrew McLean
- 8.3 Gerald O'Sullivan
- 8.4 Katie Suzanne Soulos
- 8.5 Ruth McCourt

9. Heritage Advisory Committee

- 9.1 Bernhard Bischoff
- 9.2 Morris Johnston
- 9.3 Phyllis Ann Barnes
- 9.4 Peter Suckling
- 9.5 Richard John Sargeant

10. Youth Advisory Council  
Kyra Brown, 5 Simpson Avenue, Bunbury

Amendment to Youth Advisory Council as requested at Committee Meeting 2 February 2010

10. Youth Advisory Council

- 10.1 Kyra Brown
- 10.2 April Byrne
- 10.3 Nathan Marshall
- 10.4 Callum Millard
- 10.5 Christina Crellin
- 10.6 Tahlia Russel
- 10.7 Jamel Wolfe
- 10.8 Adam Judson
- 10.9 Petch Folvig
- 10.10 Katrina Carroll

**Outcome - Council Meeting 9 February 2010**

The recommendation from the Council Standing Committee was moved Cr Major, seconded Cr Steck.

Cr Major requests that his opposition to the Bunbury-Setagaya Sister Cities Committee be recorded. Not the members just the Committee. He does not support the Committee.

Pursuant to City of Bunbury Standing Order 15.10, Cr Leigh moved, Deputy Mayor Cr Kelly seconded "The meeting exclude members of the public to permit Confidential Business, as defined in Section 5.23(2)(b) of the Local Government Act 1995, to be discussed. The motion was put to the vote and CARRIED. The members of the public and press were asked to leave the chambers.

Cr Steck moved, Cr Jones seconded that the meeting be re-opened to the public and press. The motion was put to the vote and CARRIED. The members of the public and press were allowed back into the chambers.

At this point in proceedings Cr Jones left the chambers and did not return in time to vote.



It was noted that the names for the Youth Advisory Council were supplied as requested at Council Standing Committee Meeting 2 February 2010 and are to be included in the motion.

The Mayor put the motion (as printed) to the vote and it was adopted to become Council's decision on this matter

**Council Decision 18/10**

*PART A*

1. *Community membership on the Heritage Advisory Committee be increased from 4 to 5 members to retain the balance of Council and community representation.*
2. *Mr Arpad Mencshelyi be thanked for his interest in nominating for the position of community member on the Bunbury Airport Committee and advised that on this occasion, his nomination was not successful.*

*PART B*

*Executive Officers for the following committees to contact the nominees listed and advise them that they have been appointed to the position of 'Community Representative' (tenure of membership to be as specified in Section 5.11 of the Local Government Act 1995):*

1. *Art Collection Management Committee*

- 1.1 *Helena Sahn*
- 1.2 *Rosemary Louise Nicholson*
- 1.3 *Dr Lorna Kaino*
- 1.4 *Tresslyn Smith*
- 1.5 *Kathryn Dehring*

2. *Big Swamp Wildlife Park Committee*

- 2.1 *Michael Eric Morgan*
- 2.2 *David Lindsay Grigg*

3. *Bunbury Airport Committee*

*Leaseholders*

- 3.1 *Paul Coffey*
- 3.2 *Brendan Francis Watts*
- 3.3 *Alex Karatamoglou*
- 3.4 *Robert Main*
- 3.5 *Michael Fletcher*
- 3.6 *Blair Howe*

*Community Representative*

- 3.7 *Iain Dixon Ward Farmer*

4. *Bunbury Environment & Sustainability Advisory Committee ('BESAC')*
  - 4.1 *Bernhard Bischoff*
  - 4.2 *Philip John Smith*
  - 4.3 *Hrimnir Benediktsson*
  - 4.4 *Chris Gibbs*
  - 4.5 *Terrina Rae Earl*
  
5. *Bunbury Region Roadwise Committee*
  - 5.1 *Paul Cassidy*
  - 5.2 *Brad Brooksby*
  - 5.3 *Richard Oborn*
  
6. *Bunbury-Setagaya Sister Cities Committee*
  - 6.1 *Andreas (Harry) Ostendorf*
  - 6.2 *Suzanne Ellis*
  - 6.3 *David Lawrence Powell*
  - 6.4 *David Brian Byatt*
  - 6.5 *Kazuyuki Shimada*
  - 6.6 *Emi Shimada*
  - 6.7 *Valda Rose-Marie Smith, OAM*
  - 6.8 *Pauline Vukelic*
  
7. *City Promotions Committee*
  - 7.1. *Kerstin Jackson*
  - 7.2 *John Claman Carter*
  - 7.3 *Amanda Yip*
  
8. *Community Access Committee*
  - 8.1 *Michael David Cooper*
  - 8.2 *Andrew McLean*
  - 8.3 *Gerald O'Sullivan*
  - 8.4 *Katie Suzanne Soulos*
  - 8.5 *Ruth McCourt*
  
9. *Heritage Advisory Committee*
  - 9.1 *Bernhard Bischoff*
  - 9.2 *Morris Johnston*
  - 9.3 *Phyllis Ann Barnes*
  - 9.4 *Peter Suckling*
  - 9.5 *Richard John Sargeant*
  
10. *Youth Advisory Council*
  - 10.1 *Kyra Brown*
  - 10.2 *April Byrne*
  - 10.3 *Nathan Marshall*

- 10.4 *Callum Millard*
- 10.5 *Christina Crellin*
- 10.6 *Tahlia Russel*
- 10.7 *Jamel Wolfe*
- 10.8 *Adam Judson*
- 10.9 *Petch Folvig*
- 10.10 *Katrina Carroll*

CARRIED

11 Votes "For" / Nil Votes "Against"

**11.18 CCTV Monitoring – Change of Location (Note Previous Council Resolution September 2009 Decision 172/09) (was listed as Item 11.10 on the meeting agenda)**

<b>File Ref:</b>	A03837
<b>Applicant/Proponent:</b>	Office of Crime Prevention
<b>Author:</b>	Lewis Winter, Acting Manager Community Law & Safety
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer and Geoff Klem, Executive Manager City Development

**Summary**

A formal grant funding proposal has been received from the Office of Crime Prevention (OCP).

The proposal is for the OCP to provide grant funding of \$120K over 2 years to employ full time staff to monitor the Council CCTV network *at the Bunbury Police Station*.

As part of the grant funding terms and conditions the Council will be responsible for the employment of staff and the overall management and coordination of the CCTV monitoring project.

Council decision in September 2009 regarding this proposal was:

*“Council Decision 172/09*

- 1. The City accepts the conditions associated with grant funding of \$120K over a 2 year period to employ one or more staff to monitor the CBD CCTV infrastructure, in partnership with the WA Police Service.*
- 2. The City acknowledges that neither the State Government, nor Council, will be responsible for providing further funding to continue the monitoring program at the conclusion of the grant period.*
- 3. The City agrees to participate in an Office of Crime Prevention funded evaluation of the impact of the CCTV monitoring program as proposed.*

**CARRIED**

*8 Votes “For” / 4 Votes “Against”*

Since this resolution the Police have stated that they will not allow non-Police personal to work within the Bunbury Police building.

An additional proposal seeking Council endorsement for the location of the CCTV monitoring to be conducted within the Council Administration Offices is now required.

**Background**

Background to this issue of monitoring started in 2005/06 when funding was provided through the SWDC for the WA Police Service (WAPS) to employ a CCTV monitoring

operator which would utilise the Council's extensive CCTV infrastructure and link Police operations into a successful frontline policing tool.

In 2008 as part of the pre-election funding allocation for Bunbury, funding of \$150K was allocated for CCTV infrastructure upgrade and also funding of \$120K was allocated for the employment of staff to monitor the CCTV system over a period of 4 years.

The above resolution was adopted by Council on the understanding that the monitoring would, as was previously undertaken in 2006, be located at the Bunbury Police station. At this time the Police and OCP were supportive with this concept.

Since this time the Police Deputy Commissioner has not allowed the use of the Police building for CCTV monitoring being staffed by non-police personal.

This decision by the Police has changed the original proposal in relation to location of the monitoring station. A new proposal to Council endorsing the use of Council facilities as a monitoring location is now sought.

A security room on the ground floor of the Council building which presently houses the CCTV infrastructure and the Building Management System has been identified as an area that could be utilised for monitoring. However improvements to this room would have to be undertaken to make it suitable (see below **Analysis of Financial and Budget Implications**).

Discussions with OCP have granted an approval (see **attached** Appendix 10) that the security room upgrade could be financed from the \$158K grant from the State Government to go towards CCTV infrastructure upgrade. Correspondence with OCP has ensued to formalise its approval of the variation to this grant subsidy.

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

This report and proposed CCTV monitoring project is not aligned with any City of Bunbury Strategic Planning.

#### **Community Consultation**

In relation to this report no community consultation has been undertaken.

#### **Councillor/Officer Consultation**

The Manager for Community Law and Safety who Chairs the Bunbury Community Safety and Crime Prevention Program and has oversight of the operations of the CCTV (and has long standing association with the Council CCTV system) has been consulted with regards to this report.

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

The monitoring staff will be funded by a \$120K grant to be utilised over 2 years. Council will also be required to reconcile and acquit the grant funding.

In regard to the security room infrastructure upgrade preliminary costing include:

- 1 x 45RU 1000x600mm Enclosed Cabinet/Shelves/4 Fan Unit/2 10 way Power Rails \$2,910 Ex GST
- 1 x Dell 2560x1600 30" LCD High Res Screen \$1,820 Ex. GST
- 1 x VOIP Telephone \$260 Ex GST
- 2 x Additional Cat6 Data Points to Room \$800 Ex. GST
- 1 x 1000va UPS Rack Mount (Battery Backup) \$TBA - approx \$800
- 1 x 3 way video/keyboard/mouse switcher for BMS & Security Computers (Allows to share single keyboard/mouse/screen) \$350 ex GST
- ~1.5-2 Days labour for installation of Rack/Shift Equipment/install phone
- Supply and install air-conditioning system - \$3,773
- 1 x Operator chair - \$2,100

A TOTAL of approximately - \$13,000

As highlighted previously there would be no cost to Council as this work would be financed through State Government grant funding already allocated to CCTV infrastructure upgrade.

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

There is strong evidence that CCTV assists with the detection of crime and is considered to be a deterrent to criminal activities especially when a CCTV system is monitored. There is also clear evidence that CCTV can be used as a crime prevention tool to improve the perception of a safe environment where the public can socialise and recreate. The perception of a safe environment can also contribute to the vibrancy of the City that attracts people and therefore provides benefits both socially and economically.

The City has strongly supported CCTV with significant contribution to infrastructure and ongoing maintenance and upgrading of its CCTV system. The City has continually pursued grant applications to ensure the CCTV system is maintained to the highest standards and the most up to date technology and infrastructure is provided.

### **Council Policy Compliance**

The Council has no policy in relation to this report. Council Policy on CCTV refers to the use, maintenance, privacy and access matters.

### **Legislative Compliance**

There is no legislative compliance with this report.

### **Delegation of Authority**

The Chief Executive Officer does not have delegated responsibility to undertake actions required by the recommendation listed in this report.

### **Relevant Precedents**

There is no previous precedent in regard to the Council employing staff, under contract or otherwise for the monitoring of CCTV.

However, as previously stated in 2005/2006 the SWDC in partnership with WAPS instigated a trial for the monitoring of the CCTV system. All reports of this trial were very positive in that the police enforcement/response and crime mitigation tool was extremely beneficial to the frontline policing policy.

### **Options**

#### Option 1

Council agrees to:

1. Monitoring of the CCTV system from the Council administration offices security room.
2. The security room to be upgraded to allow monitoring staff to occupy the room.
3. Using \$13K of State Government CCTV infrastructure grant funds (\$158K) to undertake security room upgrade works.

#### Option 2

The City advises the OCP that it supports the proposed CCTV monitoring program but is unable to accept the proposed grant as this function is considered a police operational matter and the location of the CCTV monitoring cannot be accommodated within Council offices.

### **Conclusion**

At a September Council meeting Councillors voted to accept the grant funding and manage the CCTV monitoring, to now effect this decision Council will now have to agree to the location of monitoring operations at Council offices.

The upgrade of the security room would have had to be undertaken at some stage in the future to accommodate new IT innovations, temperature control and better formats for viewing, checking and maintaining the CCTV network and Building Management System. It would not be considered that the room upgrade would have only been undertaken solely for accommodating the monitoring project life of 2 years.

### **Recommendation**

As Council has already agreed to accept the grant funding and manage the CCTV monitoring, to now implement this decision, Council agrees to Option 1 being:

1. Monitoring of the CCTV system from the Council administration offices security room

2. The security room to be upgraded to allow monitoring staff to occupy the room.
3. Using \$13K of State Government CCTV infrastructure grant funds (\$158K) to undertake security room upgrade works.

**Outcome - Council Committee Meeting 2 February 2010**

The Mayor asked if there were any members of the public wishing to speak on this item. Mr Mark Patane, Principal Patane Accounting cnr Clifton and Victoria Streets Bunbury spoke in favour of the installation of the CCTV system as his business is constantly subjected to vandalism.

The recommendation (as printed) was moved Cr Slater, seconded Cr Spencer.

During discussion, a question was asked as to the times that the cameras would be monitored. The answer was on a Thursday, Friday and Saturday night between 10pm and 2am initially. The Deputy Mayor asked if the Executive Manager Corporate Services would be able to provide a financial run down of what the existing Multi-Eye system has cost.

The CEO advised Council that once the grant period was concluded the City was under no obligation to assume responsibility for the ongoing monitoring of the CBD CCTV network.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

*Committee Recommendation*

As Council has already agreed to accept the grant funding and manage the CCTV monitoring, to now implement this decision, Council agrees to Option 1 being:

1. Monitoring of the CCTV system from the Council administration offices security room
2. The security room to be upgraded to allow monitoring staff to occupy the room.
3. Using \$13K of State Government CCTV infrastructure grant funds (\$158K) to undertake security room upgrade works.

**Outcome - Council Meeting 9 February 2010**

At this point in proceedings Cr Jones returned to the chambers and voted on this item. Cr Harrop and Cr Punch had left the chambers and were not present for the vote on this issue.

The recommendation from the Council Standing Committee was moved Cr Major, seconded Cr Spencer.



The Mayor put the motion (as printed) to the vote and it was adopted to become the Council's decision on this matter.

**Council Decision 19/10**

*As Council has already agreed to accept the grant funding and manage the CCTV monitoring, to now implement this decision, Council agrees to Option 1 being:*

1. *Monitoring of the CCTV system from the Council administration offices security room*
2. *The security room to be upgraded to allow monitoring staff to occupy the room.*
3. *Using \$13K of State Government CCTV infrastructure grant funds (\$158K) to undertake security room upgrade works.*

CARRIED

9 Votes "For" / 1 Votes "Against"

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Deputy Mayor Cr Kelly, Cr Jones, Cr Whittle, Cr Leigh, Cr Steele, Cr Slater, Cr Spencer, Cr Major  
Against: Cr Steck

**11.19 Koombana Beach Kiosk** *(was listed as Item 11.12 on the meeting agenda)*

<b>File Ref:</b>	F00077
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	John Beaton, Manager Administration & Property Services
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

Koombana Bay Beach is utilised by with families and other community groups and organisations enjoying the safe and tranquil setting of the bay.

The existing premises include former kiosk, public conveniences and store room. The kiosk has been closed for several years due to its deteriorated condition.

The summer season has seen requests from members of the public to enhance the facilities even though the location is serviced by Ice-Cream Vendors on a roster basis.

It is proposed to seek Council's consideration to improve the kiosk facility by deciding on one of the following options.

1. Council upgrades the existing kiosk at an estimated cost of \$15,000 and agrees to negotiate the lease of the kiosk for a lease term of five (5) years.  
*Scope of works to include:*
  - *New benches/cupboards*
  - *Floor coverings*
  - *Painting*
  - *Fly screens*
  - *Exhaust flu*
  - *Plumbing*
  - *Electrics*
2. Council prepare plans to redevelop the site at its own cost, and retains the kiosk facility and public convenience and negotiates to lease the kiosk for a lease term of ten (10) years.
3. Council invite a Private developer to submit a proposal to redevelop the site to service the area and offer a lease term of fifteen (15) years.
4. Council defers a decision on improvements to the Koombana Bay Kiosk until the revised Bunbury Waterfront Project (inclusive of the subject site) is endorsed by Council.

The venue is currently being services by itinerant vendors on a roster basis until 31 March 2010.

## **Background**

The premises are comprised within Reserve 28032 (Lot 829 on Deposited Plan 219368) and is held by the City of Bunbury under Management Order 2093/66 on Crown Land Record Volume 3107 folio 880 for the purpose of "Recreation and Aquatic Sports", with the power to lease for a term not exceeding twenty one (21) years.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided "In Principle" approval for the proposal subject to formal approval being granted on receipt of the lease document.

The kiosk has been vacant for several years due to a possible conflict with the Bunbury Waterfront Project if the premises were leased for the medium to long term. However, due to the premises state of disrepair and the perception by members of the community that the facilities should be providing a satisfactory service, the options referred to in the Summary of the report are tabled for consideration.

It is noted that at the Council Meeting held on 15 December (Decision 255/09) it was resolved that Council makes application under Royalties for Regions South West Regional Grants Scheme for 2009/10 for \$140,000 to refurbish and modify the public convenience, to allow wheel chair access and accessible changerooms, as well as storage space for the newly acquired Beach Wheelchairs, including the installation of a ramp from public convenience/changerooms to the beach.

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

### Strategic Outcome

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

### Regional Outcome

Enhancement of the premises will encourage both local and visitors to use the venue for a variety of aquatic sports and beach uses.

## **Community Consultation**

Subject to Council granting a lease to operate the kiosk, the intention must be advertised in accordance with Section 3.58 of the Local Government Act 1995, in the City Focus column of the Bunbury Mail Newspaper and displayed at both libraries, Administration Centre and on the City's website.

## **Councillor/Officer Consultation**

Both Councillors and Council Officers are familiar with the condition of the building and need for improvement.

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

Subject to Council deciding to proceed with options 1, 2 or 3 (with possible amendments) the following financial scenarios are to be considered:

- Option (1) At Council cost (estimated \$15,000) with lease term of five (5) years and seasonal rental to cover loan repayments on the upgrade cost.
- Option (2) At Council cost (to be determined) with lease term and annual rental to be negotiated to cover loan repayments on the development costs.
- Option (3) At Developer cost (to be determined) with lease term and annual rental to be negotiated.
- Option (4) No cost to Council.

#### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

- Option (1) If the City agrees to refurbish the premises, it would retain responsibility for the maintenance and upkeep.
- Option (2) If the City redeveloped the premises, it would be responsible for the maintenance and upkeep.
- Option (3) If a developer redeveloped the premises and enters into a medium to long term lease, the maintenance and upkeep of the premises is the responsibility of the developer/lessee for the initial term of the lease. At the end of the term, the City would be responsible for the ongoing maintenance and upkeep.
- Option (4) No cost to Council.

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

##### Economic Issues

The advent of a redevelopment or refurbishment of the premises would provide a commercial opportunity as well as providing a service to members of the community using the beach.

##### Social Issues

The location provides families, aquatic sports and beach activities with an ideal venue to enjoy the outdoors.

##### Environmental Issues

The use of the premises as a kiosk and other associated public venue facilities, complies with the management order held by the City for the purpose of "Recreation and Aquatic Sports".

##### Heritage Issues

There are no known heritage issues to consider.

#### **Council Policy Compliance**

There is no Council Policy relevant to this proposal.

### **Legislative Compliance**

In accordance with Section 3.58 of the Local Government Act 1995, the intention to grant a lease for the kiosk must be advertised in the City Focus column of the Bunbury Mail Newspaper and displayed at both the City's libraries, Administration Centre and on the City's website.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided "In Principle" approval options 1, 2 and 3 subject to formal approval being granted on receipt of the lease document.

### **Delegation of Authority**

Council is required to determine which option is preferred.

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

### **Relevant Precedents**

Council has considered proposals from various businesses, community groups and organisations seeking to provide additional services on the City's land holdings.

### **Options**

It is proposed to seek Council's consideration to improve the facilities by inviting expressions of interest from suitably qualified developers/operators on one of the following options

#### Option 1

Council upgrades the existing kiosk at an estimated cost of \$15,000 and agrees to negotiate the lease of the kiosk for a lease term of five (5) years.

#### Option 2

Council prepare plans to redevelop the site at its own cost, and retains the kiosk facility and public convenience and negotiates to lease the kiosk for a lease term of ten (10) years.

#### Option 3

Council invite a Private developer to submit a proposal to redevelop the site to service the area and offer a lease term of fifteen (15) years.

#### Option 4

Council defers a decision on improvements to the Koombana Bay Kiosk until the revised Bunbury Waterfront Project (inclusive of the subject site) is endorsed by Council.

## **Conclusion**

The kiosk premises have been vacant for several years pending the outcome of potential future development opportunities for the site, stemming from the review of the Bunbury Waterfront Project. It is considered appropriate to consider options available for this site.

## **Recommendation**

1. Council agrees to option 1 and invites expressions of interest from suitably qualified kiosk operators to lease the refurbished premises for a term of five (5) years.
2. The Chief Executive Officer be given delegated authority to negotiate the terms and conditions of the lease and proceed with the documentation subject to final approval by Minister for Lands.
3. The lessee be advised that during the lease term should the City require the premises for redevelopment, it may without penalty give the lessee not less than twelve (12) months notice of termination.
4. The estimated cost of \$15,000 to refurbish the kiosk be referred to March 2010 Budget Review to determine suitable funding arrangements.

## **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Major, seconded Cr Spencer.

During discussion, Deputy Mayor Cr Kelly foreshadowed that he would move option 3 if the recommendation is defeated. Cr Steck foreshadowed that she would amend option 3 to make it a 21 year lease instead of the 15 years.

Cr Slater moved an amendment to increase the money from \$15,000 to \$200,000. The Mayor called for a seconder to Cr Slaters motion but there was none therefore the motion lapsed due to want of seconder.

Cr Whittle expressed concern over the Beach Volley Ball Club losing their storage space at the kiosk if a major development was to go ahead.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

It was requested that the votes be recorded

For: Mayor D Smith, Cr Whittle, Cr Leigh, Cr Slater, Cr Spencer, Cr Major  
Against: Deputy Mayor Cr Kelly, Cr Jones, Cr Steck, Cr Steele, Cr Harrop,

Councillor Jones left the meeting at this point in proceedings (9.30pm) and did not return.

Committee Recommendation

1. Council agrees to Option 1 and invites expressions of interest from suitably qualified kiosk operators to lease the refurbished premises for a term of five (5) years.
2. The Chief Executive Officer be given delegated authority to negotiate the terms and conditions of the lease and proceed with the documentation subject to final approval by minister for lands.
3. The Lessee be advised that during the lease term should the city require the premises for redevelopment, it may without penalty give the lessee not less than twelve (12) months notice of termination.
4. The estimated cost of \$15,000 to refurbish the kiosk be referred to March 2010 budget review to determine suitable funding arrangements.

**Outcome - Council Meeting 9 February 2010**

The recommendation from the Council Standing Committee was moved Cr Spencer, seconded Cr Whittle.

The Mayor allowed a member of the public to speak on this topic. Mark Woods (address unknown) stated that he uses the beach and so do many families and that it was a family beach. The state of the kiosk is atrocious and something should be done about it. The preferred options would be to allow a private developer to knock it down and build a new and offer them a twenty one (21) year lease.

Deputy Mayor Cr Kelly foreshadowed the following alternate motion, seconded Cr Steck (proforma) should the recommendation not be passed:

1. Council immediately invites expressions of interest from private developers to submit proposals to redevelop the Koombana Beach Kiosk site - including but not limited to a kiosk facility, public conveniences, change rooms and beach user group storage rooms - offering a lease term of up to twenty one (21) years.
2. If at the close of the period allowed for expressions of interest (as per 1 above) no suitable development has been proposed, Council prepares plans to redevelop the site at its own cost and negotiates to lease the kiosk for a lease term of up to twenty (21) years.
3. An estimated budget of up to \$1 million be referred to the 5 Year Financial Plan (2010/2011 – 2014/2015) for inclusion in the 2010/2011 budget.
4. Council calls for tenders for the demolition and redevelopment of the Koombana Bay Kiosk facility in July 2010.

The Mayor put the original motion to the vote 6 Votes "For" / 6 Votes "Against. As there was an equality of votes, the Mayor exercised his casting vote to vote in favour of the motion. The motion was CARRIED and became Council's decision on this matter.

**Council Decision 20/10**

1. *Council agrees to Option 1 and invites expressions of interest from suitably qualified kiosk operators to lease the refurbished premises for a term of five (5) years.*
2. *The Chief Executive Officer be given delegated authority to negotiate the terms and conditions of the lease and proceed with the documentation subject to final approval by minister for lands.*
3. *The Lessee be advised that during the lease term should the city require the premises for redevelopment, it may without penalty give the lessee not less than twelve (12) months notice of termination.*
4. *The estimated cost of \$15,000 to refurbish the kiosk be referred to March 2010 budget review to determine suitable funding arrangements.*

CARRIED

7\* Votes "For" / 6 Votes "Against"

(\*Mayor had two votes per Standing Order 16.3)

It was requested that the votes be recorded:

For: Mayor D Smith\*, Cr Major, Cr Whittle, Cr Leigh, Cr Spencer, Cr Punch  
Against: Deputy Mayor Cr Kelly, Cr Steck, Cr Steele, Cr Slater, Cr Harrop, Cr Jones

(\*The Mayor had two votes per Standing Order 16.3)



**11.20 Business Plan Submissions – Lots 210 & 211 Holywell & Pandal Streets and Lot 66 Ocean Drive, Bunbury** *(was listed as Item 11.17 on the meeting agenda)*

<b>File Ref:</b>	A00420
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	John Beaton, Manager Administration & Property Services
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

Pursuant to Section 3.59 of the Local Government Act 1995 the Business Plan inviting submissions for the disposal of Lot 210 & 211 Holywell Street and Pandal Street and Lot 66 Ocean Drive, Bunbury has been advertised. At the close of the submission period on 4 January 2010 the following submissions were received:

- Mr A Summers, 14 Mansfield Street, Bunbury
- Mrs M Sargeant, 15 Hoylake Avenue, Bunbury

A copy of the submissions and officers comments are **attached** at Appendix 2 & 3.

**Background**

Lot 210 & 211 Holywell Street and Pandal Street and Lot 66 Ocean Drive, Bunbury have recently undergone a rezoning process and the land is zoned “Special Use Zone No. 50 (SU50)” with appropriate land use and development requirements defined under Schedule 2 of the Special Use Zones of the City’s Town Planning Scheme.

The following classes are now permitted on the land but only where the Council has exercised its discretion by granting planning approval:

- Grouped Dwelling
- Hotel
- Motel
- Multiple Dwelling
- Private Recreation
- Reception
- Restaurant
- Shop
- Short-stay Grouped Units
- Short-stay Multiple Units
- Unrestricted Residential Accommodation

Zoning of the land permits a mixture of uses including short stay accommodation, permanent residential and commercial/residential facilities. This will make land available in this location for commercial/tourism/residential development that will benefit the City both socially and economically.

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

### Strategic Outcome

Zoning of the land permits a mixture of uses suitable for commercial/tourism/residential development as detailed in Council's Town Planning Scheme 7 that will benefit the City both socially and economically. Development condition will require a developer to submit a Detailed Area Plan for the sites before a development application is considered by Council.

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

### Regional Outcome

The site is considered ideally located for tourist accommodation development in view of its proximity to:

- The Bunbury CBD;
- Regionally significant recreational spaces and facilities;
- The beachfront;
- Other existing amenities and tourist accommodation sites along Ocean Drive.

## **Community Consultation**

Pursuant to Section 3.59 of the Local Government Act 1995, the Business Plan has been advertised for public information as follows:

- Local Government Notice – The West Australian, 12 November 2009
- City Focus Column – Bunbury Mail, 18 November 2009
- Public Notice – South Western Times, 19 November 2009
- Public Notice – City of Bunbury website
- Public Notice display at Bunbury and Withers Libraries and Administration Centre

## **Councillor/Officer Consultation**

The proposal to give notice of the Business Plan was considered at the Council Meeting held on 27 November 2007.

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

The disposal of the sites will provide a significant revenue stream and contribute towards some of the extensive major capital project in the City's Corporate Financial Plan including:

- Demolition/part refurbishment of the Bunbury Timber Jetty
- New Visitor Information Centre
- New Soccer Stadium and Athletics Track at Hay Park
- Construction of New Works Depot
- Bunbury Regional Entertainment Centre upgrade
- Improvement to Hands Oval Football Stadium

### **Life-cycle Maintenance Costs (Capital Works Projects Only)**

Not applicable, as it is intended to dispose of the sites.

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

#### Economic Issues

This complies with the City of Bunbury Strategic Plan 2007-2012 in particular 3 whereby the City is committed to deliver major capital projects on time and on budget. Targeting specific types of developers and attracting investment into the precinct will provide an economic benefit for the City.

#### Social Issues

Zoning of the land permits a mixture of uses including short stay accommodation, commercial, tourism and residential. This will make land available in this location for commercial/tourism/residential development that will benefit the City both socially and economically.

Permitted development on this site is also expected to complement the range of existing tourist development sites and services located within the Bach Beach precinct.

#### Environmental Issue

There is remnant vegetation on the site which has not identified any rare or endangered flora or fauna.

#### Heritage Issues

The Western Australian Heritage Council does not list any European or Natural Heritage sites or artefacts as being on the land.

### **Council Policy Compliance**

There is no Council Policy relevant to the disposal of property.

### **Legislative Compliance**

Council has complied with Section 3.59 of the Local Government Act 1997 by giving notice of intention to sell Lot 210 & 211 Holywell Street and Pandal Street and Lot 66 Ocean Drive, Bunbury

### **Delegation of Authority**

There is no delegate of authority relevant to this proposal.

### **Relevant Precedents**

Council has considered other Business Plans including all stages of the Bunbury Business Park Industrial Subdivision.

## **Options**

### Option 1

Per the recommendation listed in this report.

### Option 2

Per the recommendation listed in this report (with amendments as suggested by Members of Council).

## **Conclusion**

The sale of the sites provides prospective purchasers with a unique opportunity to develop a commercial/tourism/residential related venture in a beachside location in close proximity to the State's largest regional centre.

The zoning will ensure that development of the sites will be appealing and retain or improve the visual integrity of the surrounding area. In addition, development on this site is also expect to complement the range of existing tourist development sites and services located within the Back Beach precinct.

Revenue received will contribute toward the cost of major capital projects listed in the City's Corporate Financial Plan.

## **Recommendation**

1. Council notes the submissions received and the submitters be thanked and advised the submissions were considered by councillors when making their decision.
2. Council agrees to proceed with the disposal of Lots 210 Holywell Street, Lot 211 Pandal Street and Lot 66 Ocean Drive, Bunbury

## **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Spencer, seconded Cr Major.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

### Committee Recommendation

1. Council notes the submissions received and the submitters be thanked and advised the submissions were considered by Councillors when making their decision.
2. Council agrees to proceed with the disposal of Lots 210 Holywell Street, Lot 211 Pandal Street and Lot 66 Ocean Drive, Bunbury

**Outcome - Council Meeting 9 February 2010**

The recommendation from the Council Standing Committee was moved Cr Spencer, seconded Cr Major.

The Mayor put the motion (as printed) to the vote and it was adopted to become Council's decision on this matter.

**Council Decision 21/10**

1. *Council notes the submissions received and the submitters be thanked and advised the submissions were considered by Councillors when making their decision.*
2. *Council agrees to proceed with the disposal of Lots 210 Holywell Street, Lot 211 Pandal Street and Lot 66 Ocean Drive, Bunbury*

CARRIED  
8 Votes "For" / 4 Votes "Against"

**Note: Absolute Majority vote reached**

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Deputy Mayor Cr Kelly, Cr Whittle, Cr Leigh, Cr Harrop, Cr Spencer Cr Punch, Cr Major  
Against: Cr Jones\*, Cr Steck, Cr Steele, Cr Slater

*\*Cr Jones voted against Point 1 of the motion*

**11.21 Proposed Regional Cities Alliance** *(was listed as Item 11.20 on the meeting agenda)*

<b>File Ref:</b>	A03932
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer

**Summary**

The Cities of Bunbury, Albany, Geraldton-Greenough and Kalgoorlie-Boulder are proposing to enter into an alliance, by way of Memorandums of Understanding between themselves and both the State and Commonwealth Governments as a foundation for strategic dialogue on the state planning process for major regional cities.

Copies of the proposed Memorandum of Understanding and the Draft consultants report have previously been distributed to elected members.

This proposal seeks Councils support by way of accepting the draft report and endorsing the sign off of the Memorandum of Understanding in order to formalise the Alliance(s) so that engagement with the State and Commonwealth Governments can occur.

**Background**

The Cities of Bunbury, Albany, Geraldton-Greenough and Kalgoorlie-Boulder have collaborated in the development of a draft report which outlines the critical importance of a major policy shift which is required, to genuinely address regional development within the State of Western Australia.

The draft report seeks to emphasise the central role and importance of decentralised urban development as a feature of regional development and to place Regional Cities at the centre of that debate.

Whilst making a strong case for decentralisation of future population growth away from the Perth Metropolitan Area, the priority objective of the proposed alliance is strategic investment in the infrastructure of regional cities.

**Strategic and/or Regional Outcomes**

This matter can be directly aligned with the City of Bunbury Strategic Plan 2007 – 2012, Strategic Objective 1, Strategies 1.1, 1.2 and 1.3 which deal with “Placing Bunbury and the South West on the Minutes for the Federal Regional Development Council, Develop a program of meetings with key state and federal government representatives and Develop a Regional Taskforce with key players,” respectively.

**Community Consultation**

As this is a matter relating to the possible formation of a regional alliance, there is no requirement for general community consultation to occur at this point in time.

### **Councillor/Officer Consultation**

In having the draft report prepared, the four participating Councils Mayor's and Chief Executive Officers have collaborated extensively.

Consultation has also occurred with Government representatives to explore initial reactions to the proposal to establish the alliance.

The Chambers of Commerce and Industry for each of the proponent Cities were also consulted on the prospect of the proposal being advanced.

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

It is not anticipated, at this point in time that this proposal will have any impact on current budget or identified expenditures.

The role of the proposed alliance will be to seek extra State and Commonwealth funding on infrastructure projects identified throughout the participant alliance cities network.

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

The draft report explores the economic contribution of regional Western Australia; the existing projections for population growth in the State and the likely distribution of the population in the absence of decisive policy interventions. It is considered highly likely that the projected growth of the Perth Metropolitan area will have serious adverse effects. The lack of a concerted approach to regional development and distribution of population growth to regional cities is viewed as a major strategic risk to the State's future prosperity.

Should the proposed alliance, in some way be successful in influencing the State Government's policy direction in regard to distribution of population and investment in regional infrastructure, then future economic and social benefits may very well be derived throughout the proponent regions.

### **Council Policy Compliance**

There is no existing Council Policy relevant to this item.

### **Legislative Compliance**

There are no legislative requirements or impediments to this proposal at this stage.

### **Delegation of Authority**

The Chief Executive Officer does not have the delegated authority to enter into an agreement by way of a Memorandum of Understanding, such as is proposed.

### **Relevant Precedents**

At the time of preparing this report no relevant precedent has been identified.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council not agree to accept the draft report and authorise the eventual sign off of the Memorandums of Understanding by His Worship the Mayor and the Chief Executive Officer.

### **Conclusion**

This proposal is viewed as an excellent format to strengthen relationships with both State and Commonwealth Local Government and Regional Development Agencies.

The Proposed Steering Committee of the Alliance will consist of the four (4) Mayors of the participant local authorities.

### **Recommendation**

Council accept the draft report and agree to the establishment of the "Regional Cities Alliance" and endorse the eventual sign off of the proposed Memorandum of Understanding by His Worship the Mayor and the Chief Executive Officer.

### **Outcome - Council Committee Meeting 2 February 2010**

The recommendation (as printed) was moved Cr Spencer, seconded Cr Major.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

It was requested that the votes be recorded

For: Mayor D Smith, Deputy Mayor Cr Kelly, Cr Jones, Cr Major, Cr Whittle, Cr Leigh, Cr Steele, Cr Slater, Cr Harrop, Cr Spencer  
Against: Cr Steck

#### Committee Recommendation

Council accept the draft report and agree to the establishment of the "Regional Cities Alliance" and endorse the eventual sign off of the proposed Memorandum of Understanding by His Worship the Mayor and the Chief Executive Officer.



**Outcome - Council Meeting 9 February 2010**

The recommendation from the Council Standing Committee was moved Cr Major, seconded Cr Spencer.

The Mayor put the motion (as printed) to the vote and it was adopted to become the Council's decision on this matter.

**Council Decision 22/10**

*Council accept the draft report and agree to the establishment of the "Regional Cities Alliance" and endorse the eventual sign off of the proposed Memorandum of Understanding by His Worship the Mayor and the Chief Executive Officer.*

CARRIED  
9 Votes "For" / 3 Votes "Against"

It was requested that the votes be recorded as follows:

For: Mayor D Smith, Cr Jones, Cr Major, Cr Whittle, Cr Leigh, Cr Slater, Cr Harrop, Cr Spencer, Cr Punch  
Against: Deputy Mayor Cr Kelly, Cr Steele, Cr Steck,

**12. Motions on Notice**

Nil

**13. Urgent Business** *(With Approval of Majority of Members Present as Permitted Under Standing Order 5.1.13)*

Pursuant to City of Bunbury Standing Order 15.10, Cr Steck moved, Deputy Mayor Cr Kelly seconded "The meeting exclude members of the public to permit Confidential Business to discuss a legal matter as per Section 5.23(2)(d) of the Local Government Act 1995. The motion was put to the vote and CARRIED. The members of the public and press were asked to leave the chambers.

Cr Steck moved, Deputy Mayor Cr Kelly seconded that the meeting be re-opened to the public and press. The motion was put to the vote and CARRIED. The members of the public and press were allowed back into the chambers.

**14. Items to be Noted or Endorsed**

There are no new items for noting.

**15. Confidential Business as Stipulated Under Section 5.23(2) of the Local Government Act 1995**

Nil

**16. Close of Meeting**

The meeting was declared closed at 9.50pm.