



Bunbury City Council

Notice of Meeting & Agenda 2 March 2010



City of Bunbury
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Bunbury WA 6230
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 Notice of Meeting

TO: Council Members

The next Ordinary Meeting of the Bunbury City Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on **Tuesday, 2 March 2010** at 6.00pm.

Greg Trevaskis
Chief Executive Officer
(Date of Issue: 25/02/ 2010)

Agenda 2 March 2010

NOTE: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the meeting.

Council Members:

His Worship the Mayor, Mr D Smith
Deputy Mayor - Councillor Brendan Kelly
Councillor Judy Jones
Councillor Wayne Major
Councillor Stephen Craddock
Councillor Alfred Leigh
Councillor Helen Punch
Councillor Noel Whittle
Councillor Ross Slater
Councillor Michelle Steck
Councillor Juliet Harrop
Councillor Derek Spencer
Councillor Karen Steele

- 1. Declaration of Opening by the Mayor**

- 2. Record of Attendance, Apologies and Leave of Absence**

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

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.

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

6. Confirmation of Previous Minutes

The minutes of the Council Meeting held 9 February 2010, have been circulated.

Recommendation

The minutes of the Council Meeting held 9 February 2010, be confirmed as a true and accurate record.

7. Disclosures of Interest Under the Local Government Act 1995

Members should fill in *Disclosure of Interest* forms for items in which they have a financial, proximity or impartiality interest and forward these to the Mayor before the meeting commences.

8. Announcements by the Mayor (No Discussion Permitted)

9. Chief Executive Officer Reports/Discussion Topics

9.1 Request for Tender – Maintenance Service for Pay and Display Ticket Issuing Machines

File Ref:	A00471
Applicant/Proponent:	Internal Report
Author:	Neil Dyer, Parking Coordinator
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has invited companies to tender for the maintenance of the existing fleet of ticket issuing machine and the fleet of on-street ticket issuing machines.

Background

Tenders were invited in *The West Australian* on 18 November 2009 and the South West Times on Thursday 26 November 2009, for suitable qualified persons to undertake the maintenance of the existing fleet of ticket issuing machines and the proposed on-street ticket issuing machines. The RFT closed at 3.00pm on Friday 8 January 2010.

The existing ticket issuing machines are currently maintained by Community Law and Safety Officers as part of the parking duties. However, with the imminent installation of the on-street machines, the work load in this area will increase significantly whereby this arrangement will not be viable to continue with the current resources hence the requirement to seek other alternatives need to be investigated.

Council Decision 259/09

1. *Council accepts the tender submitted by APARC for the supply, delivery and commissioning of Pay-and-Display parking machines subject to successful negotiations between Council Officers and APARC concerning the provisions of the warranty for the Ticket machines.*
2. *The tender price to be recorded in the City's Tender Register.*

CARRIED
10 Votes "For" / 1 Vote "Against"

Details of the tender response and evaluation process are included in the Confidential Report that has been circulated to member **under separate cover**

Strategic and/or Regional Outcomes

The installation of on-street ticket issuing machines in the Bunbury Central Business District is a critical component of the CBD Parking Strategy which forms one of the implantation plans within the 2007 – 2012 Strategic Plan. Comprehensive maintenance of the machines is critical to ensure their operation.

Community Consultation

Community consultation was not carried out as part of the tender process.

Councillor/Officer Consultation

Tender specifications were developed in consultation with operational staff within the Community Law and Safety Division.

Analysis of Financial and Budget Implications

A budget amount of \$70,000 (for a six month period) has been allocated for the Maintenance of the ticket issuing machines in the 2009/10 budget.

Economic, Social, Environmental and Heritage Issues

The successful implementation of the CBD Parking Strategy is important to ensure the continued viability of the CBD. The introduction of on-street ticket issuing machines is an important component of this strategy and is critical to its overall success. Once installed it is vital that the machines are maintained to the highest possible standard to ensure customer satisfaction and maximum operating 'up' time.

There are no environmental or heritage implications to consider as a result of the maintenance of the ticket issuing machines.

Council Policy Compliance

The tender process complies with the requirements of Work Procedure WP4.6 'Tender Procedure' and associated legislation including the City's "Buy Local Policy" as three of the tenders submitted are based in Bunbury.

Legislative Compliance

Advertising and process of the tenders has been conducted in accordance with Local Government (Functions and General) Regulations 1996, Part 4 – Tenders for Providing Goods and Services (S3.57)

Delegation of Authority

As the cost of the contract will exceed \$100,000 it has been dealt with in accordance with the Local Government (Functions and General) Regulations 1996, Part 4 Tenders for providing Goods or Services (S.3.57)

Relevant Precedents

Council have previously dealt with other tenders that have exceeded \$100,000.

Options

Option 1

That the City not accept any of the Tenders received.

Option 2

The City accepts one of the Tenders received.

Conclusion

The Tender Evaluation Panel determined that although the Tenders submitted in all instances were conforming, the evaluation revealed that there was no tender that was acceptable in terms of contract price and/or the provision of back up service.

Details of the evaluation of the tenders are contained within the Confidential Report that has been circulated to member **under separate cover**

As the commissioning of the ticket issuing machines is to occur in May 2010, the Chief Executive Officer is now investigating alternative options for maintenance of the ticket machines.

Recommendation

1. That Council resolves to not accept any of the tenders received for the Maintenance of Pay and Display parking machines;
2. That the Chief Executive Officer investigates alternative options for the maintenance of the machines;
3. Record all Tenders in the Tender Register

9.2 Appointment of Authorised Council Officer/Person – Semira Rose and Rajesh Bhardwaj

File Ref:	Personal
Applicant/Proponent:	Internal Report
Author:	Dean Ball Acting Senior Ranger, Community Law & Safety
Executive:	Geoff Klem, Executive Manager City Development

Summary/Background

Semira Rose and Rajesh Bhardwaj have recently commenced employment with the City of Bunbury as a Ranger/Fire Control Officers. These officers now require Council authorization to perform relevant duties in accordance with various legislation that is administered by the Department.

Legislative Compliance

Council is required to authorize and appoint a person or persons to act on behalf of the City of Bunbury in accordance with various legislation. If required, Council is also required to cancel the authorization for staff that Council had previously authorized. Once Council has appointed a person, the appointment together with any cancellations must be advertised for public information (a statutory requirement).

Options

Option 1

Per the Executive Recommendation listed in this report.

Option 2

Council may elect not to approve the appointments.

Executive Recommendation

1. Council appoints Semira Rose and Rajesh Bhardwaj as Authorized Person's and/or Authorized Officer's in accordance with the following legislation:
 - 1.1 Dog Act 1976, Dog Act Regulations, Dog (Restricted Breeds) Regulations (No. 2) and Dog Local Laws (as amended);
 - 1.2 Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1995 as amended;
 - 1.3 Litter Act 1979 and Litter Act Regulations (as amended);
 - 1.4 Control of Vehicles (Off-road Areas) Act 1978 and Control of Vehicles (Offroad Areas) Act Regulations (as amended);
 - 1.5 The purpose of control and supervision of any of the Local Laws of the City of Bunbury Council; and
 - 1.6 Bush Fires Act 1954 and Bush Fires Act Regulations (as amended).

2. Council appoints Semira Rose and Rajesh Bhardwaj as:
 - 2.1 Registration Officer in accordance with the Dog Act 1976;
 - 2.2 Fire Control Officer in accordance with Section 38 and 59 of the Bush Fires Act 1954 (as amended);
 - 2.3 Pound Keeper/Ranger pursuant to the provision of Part XX of the Local Government (Miscellaneous Provisions) Act 1995.
3. The appointments to be advertised in accordance with the various Legislation.
4. The appointment in points 1 and 2 herein are to apply as from the date of the officer's commencement of employment with the City of Bunbury.

9.3 Bunbury Timber Jetty – Progress Options

File Ref:	
Applicant/Proponent:	Michael Scott Executive Manager City Services
Author:	Michael Scott Executive Manager City Services
Executive:	Greg Trevaskis Chief Executive Officer

Summary

This agenda item seeks to determine the Council's way forward on works relating to the Bunbury Historic Timber Jetty.

Background

Council's adopted budget and 5 Year Plan includes \$3.5M to match the State Government's contribution for the purpose of demolition and restoration works on the timber jetty.

Concerns have been raised by Council, business and community stakeholder groups about the safety of aquatic recreation activities in the jetty area because of the risk of dislocated material in the water.

A report (circulated **under separated cover**) was received from consulting engineers JFA Consultants Pty Ltd (JFA) following Council decision (Resolution 175/09) to seek costed option for the facility. This report presented estimated costs in excess of available funds for demolition and restoration works. The estimated costs were verified against work being undertaken at the Busselton Jetty.

In consideration of this information, Council has met with the Bunbury Timber Jetty Conservation and Environment Society (BTJCES) and agreed on four recommendations which now need undergo due process.

Strategic and/or Regional Outcomes

The Bunbury Timber Jetty Conservation and Environment Society (BTJCES) has the stated view that the facility has regional recreation and tourism potential.

The jetty is on the state heritage register and of interest to the Heritage Council of W.A.

Community Consultation

The engineering consultants have met with members of the BTJCES at various times since the company was appointed by Landcorp.

A meeting was held with representatives of the BTJCES on Wednesday 25th February to discuss the JFA report.

Councillor/Officer Consultation

Council officers are in agreement that a solution to the risks associated with the dilapidated jetty need to be addressed.

Analysis of Financial and Budget Implications

A total of \$7M has been tagged against this project, based on cost estimates undertaken in 2007. This is made up of \$3.5M from Council and \$3.5M from the State Government, linked to the Koombana Bay development.

Council holds approximately \$320,000 in preserved funds originally provided by the State Government for demolition and preservation works.

It is proposed to utilise these funds for any resolution that stems from this report.

Life-cycle Maintenance Costs (Capital Works Projects Only)

An estimated cost for general maintenance of the proposed refurbished jetty has been provided by the consultants. It depends on the length of the structure to be retained and is estimated to be \$50M over 15 years. Detailed costing and a maintenance plan would need to be formulated to verify these estimates however the order of magnitude has been confirmed by the consultant managing works at the Busselton Jetty restoration project.

Economic, Social, Environmental and Heritage Issues

The jetty is listed on the state heritage register.

Council Policy Compliance

Council approval is required expend the jetty's preserved funds on specific restoration and conservation works such as the installation of a protective containment boom.

Legislative Compliance

N/A

Delegation of Authority

It is recommended that the Chief Executive Officer is authorised to appoint a suitable boom provider so that its installation may be expedited, if Council determines to proceed with such an installation.

Council policy allows for the CEO to engage a provider when the provision of sole or specialist services is to be undertaken.

Council policy allows for the CEO to be authorised to commit to expenditure greater than the recommended limit of \$100,000 for this position.

Relevant Precedents

Council has previously authorised expenditure of preserved funding for planning. (Parking Strategy)

Council has previously delegated sole provider, contractor appointment and expenditure in excess of \$100,000 to its CEO. (Athletics track)

Options

Option 1

From the meeting of Wednesday 24 February 2010, the follow items are recommended:

Item 1.1

Council authorises a fit for purpose containment boom to be installed around the Bunbury Jetty and the CEO is delegated authority to immediately undertake all required approval processes, commit funding and appoint a provider so that the installation can be expedited.

Item 1.2

The Bunbury Timber Jetty Conservation and Environment Society's recommended preservation of 40% of the structure to Row 61 at a cost of up to \$12.3M is supported by Council in the event that matters relating to heritage and funding are sorted to its satisfaction. (Refer Table 5 Comparative Cost Report in report under separate cover)

Item 1.3

The CEO is requested to write to the Heritage Council for comment and its position on the competed removal of the jetty.

Item 1.4

The Mayor is requested to write to the Premier advising of Council's receipt of the JFA cost estimates for the jetty and requesting consideration for additional funding by the State Government.

Option 2

Council does not support the recommendations listed in this report.

Option 3

Council may decide to choose from a variety of levels for restoration or even full demolition based on the various options and costings provided by coastal, port and harbour engineers, JFA Consultants Pty Ltd (22 January 2010)

Table 5: Comparative Cost Summary (JFA Report page 4)

Percent to Restore	Pile Row	Approximate Length	Restoration Cost	Demolition Cost	Total Cost
70%	103	410m	\$5,433,000	\$3,097,000	\$13,700,000
50%	76	300m	\$3,733,000	\$4,197,000	\$12,900,000
40%	61	240m	\$2,623,000	\$4,809,000	\$12,300,000
30%	46	180m	\$1,954,000	\$5,114,000	\$11,800,000
20%	31	125m	\$1,286,500	\$5,426,000	\$11,300,000
0%	1	0m	\$0	\$6,050,000	\$10,500,000

Note: Total Cost includes warranties, contingency, mobilization and demobilization

Conclusion

In light of recent cost estimates and information provided by the Bunbury Timber Jetty Conservation and Environment Society, community stakeholders and consulting engineers, Council now wishes to determine the way forward for making the jetty safe in the short term and to what extent it can be redeveloped and what financial support may be available in the longer term

Recommendation

1. That Council determines the level of restoration/demolition it supports based on Table 5: Comparative Cost Summary for the purpose of making submissions to the State and Federal Government for funding assistance in addition to Council's commitment of \$3.5 million.
2. Council authorises a fit for purpose containment boom to be installed around the Bunbury Jetty and the CEO is delegated authority to immediately undertake all required approval processes, commit funding and appoint a provider so that the installation can be expedited.
3. The CEO is requested to write to the Heritage Council seeking advice on the proposed redevelopment/demolition of the Bunbury Timber Jetty.
4. The Mayor is requested to write to the Premier advising of Council's receipt of the JFA Consultants Pty Ltd cost estimates for the jetty and requesting consideration for additional funding by the State Government.

10. Reception of Formal Petitions and Memorials

11. Reception of Reports and Recommendations from the Council (Standing) Committee Meeting held 23 February 2010

Standing Order 16.1.1 permits the Council to adopt the Committee Recommendations listed in Section 11 of this agenda *"en bloc"*.

At the meeting, councillors to identify any items requiring individual attention.

11.1 Proposed Home Day Care Centre, 16 Foreman Drive

File Ref:	P13632
Applicant/Proponent:	Ms DK Wisniewski
Author:	Paul Davies, Planning Consultant
Executive:	Geoff Klem, Executive Manager City Development

Summary

An application has been received from Ms Dinah Wisniewski for a Home Day Care centre at 16 Foreman Drive. The applicant advises that the Home Day Care centre can only provide care for up to 7 children including 4 children under 4 years and 3 children aged 5 – 12 years.

The applicant advises that the hours of operation will be 8am to 5.30pm Monday to Friday. Further, the applicant has two children, hence only an additional 5 children can be accommodated at the premises. The applicant also advises that they currently renting the subject property.

The business is proposed to be supported and monitored by the YMCA Family Resource Centre in Busselton. Day Care providers are required to complete a three month licensing and training program prior to operating their service. Providers are required to uphold standards of the State Child Care licensing Standards unit and National Childcare Accreditation Council.

Day Care centre is an “A” use in the Residential zone and the proposal has been advertised for public comment. Two submissions have been received from adjoining owners. One submission supports the proposal subject to requesting that children be kept away from the property fence to avoid agitation of the adjoining owners’ pet dogs.

The second submission objects to the proposal on the basis of noise nuisance and loss of privacy, traffic concerns with the narrow access road, devaluation of property and reduced rental value of the property. The objector advises that they are shift workers and while they are not currently living at the property they are looking at moving to the property.

It is recommended that Council approve the proposed Home Day Care centre at 16 Foreman Drive subject to conditions as outlined in the recommendation.

In view of the concerns from the adjoining property owner as discussed in this report it is recommended that approval be issued for a twelve (12) month period to be reviewed annually in the same manner as a home occupation or home business is reconsidered each year.

Background

An application has been received from Ms Dinah Wisniewski for a Home Day Care centre at 16 Foreman Drive. The applicant advises that the Home Day Care centre can only provide care for up to seven (7) children including four (4) children under four (4) years and three (3) children aged 5 – 12 years.

The **attached** Arial photograph Appendix 1 shows the location of the subject property.

The applicant advises that the hours of operation will be 8am to 5.30pm Monday to Friday. Further, the applicant has two children, hence only an additional five (5) children can be accommodated at the premises. The applicant also advises that they are currently renting the subject property.

The applicant advises that the business will be operated within the existing single residential house and the outside grounds of the subject property. The business does not have any employees and they will have public liability insurance through National Family Day Care Australia.

The business is proposed to be supported and monitored by the YMCA Family Resource Centre in Busselton. Day Care providers are required to complete a three (3) month licensing and training program prior to operating their service. Providers are required to uphold standards of the State Child Care licensing Standards unit and National Childcare Accreditation Council.

The YMCA Resource Centre advises that they have forty five (45) working family day care centre providers in the lower south west region and does not have a history of complaints from neighbours/communities or adjoining landowners. The service has been operational for twenty three (23) years in the lower south west region with a very positive reputation.

Day Care centre is an “A” use in the Residential zone and the proposal has been advertised for public comment. Two submissions have been received from adjoining owners. One submission supports the proposal subject to requesting that children be kept away from the property fence to avoid agitation to the owners’ pet dogs.

The second submission outlines objection to the proposal on the basis of noise nuisance and loss of privacy, traffic and parking concerns with the narrow access road, devaluation of property and reduced rental value of the property. The Engineering Department advises that they do not anticipate any traffic or parking issues with the proposed low key use.

The objector advises that they are shift workers and while they are not currently living at the property they are looking at moving to the property. Also, the objector requested further details of the proposed use in regard to the time and days of operation, and proposed entry area.

Whilst the concerns of the objector are noted the proposed business is considered very low key. The issue of potential noise from children

playing is likely in any residential location. As outlined by the applicant one of the existing adjoining properties has 6 children in one family.

Concerns in regard to the narrow width of Foreman Road are also noted, however, the proposed facility will be a low traffic generator and parking is available on the existing double driveway. Also, there are only three properties with access to the subject section of Foreman Drive which is adjacent to Parade Road.

The small scale home day care centres (maximum seven (7) children) provides a facility for local families to obtain child care in close proximity to residential areas.

Council's Local Planning Policy – Child Care premises is orientated towards larger commercial type Child Care Centres with larger numbers of children and requirements for access and car parking. The policy generally states that Child Care premises should be located within frame areas in accordance with Council's Housing Strategy and Commercial Strategy.

The subject property is not located in a frame area, however, the policy states that applications for child care centres outside of frame areas would be considered on their merits including consideration of the nature of the business, location and surrounding land uses.

Generally applications for Home Business and Home Based Business are issued for a twelve (12) month period which is renewed on an annual basis from the 31 December of each year.

In view of the concerns from the adjoining property owner as discussed above it is recommended that a condition be included advising that approval is issued for a twelve (12) month period to be reviewed annually.

It is recommended that Council approve the proposed Home Day Care centre at 16 Foreman Drive subject to conditions as outlined in the recommendation.

Strategic and/or Regional Outcomes

The proposed facility will provide a home based child care facility for the Bunbury community.

Community Consultation

The proposal has been advertised for public comment. Two submissions have been received from adjoining owners. Copies of the submissions are **attached** at Appendix 2

One submission supports the proposal subject to requesting that children be kept away from the property fence to avoid agitation to the owner's pet dogs.

The second submission outlines objection to the proposal on the basis of noise nuisance and loss of privacy, traffic and parking concerns with the

narrow access road, devaluation of property and reduced rental value of the property.

The objector advises that they are shift workers and while they are not currently living at the property they are looking at moving to the property. Also the objector requested further details of the proposed use in regard to the time and days of operation, and proposed entry area.

The applicant provided further comment in regard to the issues raised by the objector as outlined above and the objector has advised that they object to the proposal.

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 through providing a service for working families. From a social perspective the facility will provide a service for the local community.

There are no anticipated Environmental or Heritage concerns with the proposal.

Council Policy Compliance

Council's Local Planning Policy – Child Care premises is generally orientated towards larger commercial type Child Care Centres with larger numbers of children and requirements for access and car parking. The policy generally states that Child Care premises should be located within frame areas in accordance with Council's Housing Strategy and Commercial Strategy.

Whilst the subject land is not located in a Frame area the policy states that applications for Child Care centres outside of frame areas will be considered on their merits including consideration of the nature of the business, location and surrounding land uses.

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 Ms DK Wisniewski for the proposed home day care centre at 16 Foreman Drive for the following reasons:
 - 1.1 The proposed use will increase traffic demands and car parking requirements which will detrimentally impact on adjoining residential properties.
 - 1.2 The proposed use will increase potential for noise which will reduce the amenity of adjoining residential properties.

Conclusion

An application has been received from Ms Dinah Wisniewski for a home day care centre at 16 Foreman Drive. The applicant advises that the home day care centre can only provide care for up to 7 children including 4 children under 4 years and 3 children aged 5 – 12 years.

Day Care centre is an “A” use in the Residential zone and the proposal has been advertised for public comment. Two submissions have been received from adjoining owners. One submission supports the proposed use and one submission objects to the proposed use

The small scale home day care centres (maximum 7 children) provides a valuable facility for local families to obtain child care in close proximity to residential areas.

Council’s Local Planning Policy – Child Care premises states that applications for child care centres outside of frame areas will be considered on their merits including the nature of the business, location and surrounding land uses.

It is recommended that Council approve the proposed home day care centre at 16 Foreman Drive. In view of the concerns from the adjoining

property owner as discussed in this report it is recommended that approval be issued for a 12 month period to be reviewed annually.

Recommendation

Council resolve under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to approve the application from Ms DK Wisniewski for the proposed Home Day Care centre at 16 Foreman Drive subject to the following conditions:

1. Approval is valid until 31 December 2010 then to be reviewed annually generally in accordance with home business requirements.
2. Maximum of 7 children to be accommodated at the premises.
3. Hours of operation to be limited to 8.00am to 5.30pm Monday to Friday excluding public holidays.

Outcome - Council Committee Meeting 23 February 2010

The Mayor called for any public speakers.

The applicant, Ms Dinah Wisniewski addressed the Committee. During discussion, the following points were raised:

- Family Day Care has been operating in WA for forty (40) years.
- There are currently forty-five (45) Family Day Care centres in the South West but there are none in Bunbury.
- The YMCA in Busselton run extensive training programs in order for anyone to become a carer.
- The noise generated is no different to living next door to a large family.
- There is no actual time limit on hours of operation though the standard hours are from 7.30am to 5.30pm Monday to Friday. The centre can operate at the times that they are needed by the families that use the centre.
- As the centre is limited to seven (7) children there will not be a greater increase in vehicle traffic as two (2) of the children in the centre will actually be the applicants own children and it is possible that there will be more than one child from a family attending thereby reducing the number of cars. The times of interruption will only be for a short period in the morning and evening.
- The YMCA do constant inspections of the premises to make sure that the carer's are keeping up with standards. The applicant is also subject to regular property inspections from the landlord.
- Family Day Care centres are not the same as Child Care centres in that the number of children that can be catered for is a lot lower and the guidelines governing them are completely different.
- The actual owner of the property (the landlord) is quite happy for the applicant to run the Family Day Care from the premises.

Cr Steck moved an amendment to changing the hours of operation from "8am to 5.30pm" to "7.30am to 7.30pm" as it allowed for a little more flexibility for the parents using the service. Cr Steck asked the Executive Manager City Development as to what type of planning restrictions do home businesses have to adhere to. He said he would take the question on notice and provide her with an answer.

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

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

Committee Recommendation

Council resolve under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves to approve the application from Ms DK Wisniewski for the proposed Home Day Care centre at 16 Foreman Drive subject to the following conditions:

- 1. Approval is valid until 31 December 2010 then to be reviewed annually generally in accordance with home business requirements.**
- 2. Maximum of 7 children to be accommodated at the premises.**
- 3. Hours of operation to be limited to 7.30am to 7.30pm Monday to Friday excluding public holidays.**

CARRIED

12 Votes "For" / Nil Votes "Against"

11.2 Bunbury Runners Club Incorporated – Proposed Renewal of Deed of Lease Over the Eastman Pavilion, Bunbury Recreation Ground, Lots 120, 121 & 122 on Deposited Plan 222212 Ocean Drive, Bunbury & Sub-Leases to Bunbury & Districts Cricket Association and South West Warriors Rugby League Club Inc.

File Ref:	F00076
Applicant/Proponent:	Bunbury Runners Club Inc.
Author:	John Beaton, Manager Administration & Property Services, Elizabeth Watkins, Community Recreation Liaison Officer
Executive:	Ken Weary, Executive Manager Corporate Services, Domenic Marzano. Executive Manager City Life

Summary

An application has been received from the Bunbury Runners Club Inc. ("Lessee") seeking Council's consent to renew the Lease over the Eastman Pavilion, Bunbury and enter into a sub-lease with the Bunbury and Districts Cricket Association and South West Warriors Rugby League Club at the Recreation Ground Lots 120, 121 & 122 on Deposited Plan 222212 Ocean Drive for a term of five (5) years. A location plan is **attached** at Appendix 5.

Background

The demised premises are held freehold by the City of Bunbury (Certificate of Title 121-135) with Council having the discretion to enter into a lease agreement.

The applicant has occupied its current lease site since 1996. The lease has been extended to 31 March 2010 through the 'Holding Over' clause. The proposal to extend the term of the lease to the Bunbury Runners Club Inc for a further five (5) years and allow the Bunbury Runners Club to enter into a Sub-lease with the Bunbury and Districts Cricket Association and South West Warriors Rugby League Club does not conflict with the Hay Park Feasibility Study's short to medium options for the location.

Community Recreation Liaison Officer Comments

Council's Community Recreation Liaison Recreation Officer have held discussions with each of the parties.

The South West Warriors Rugby League Club is newly formed and is seeking Councils approval to utilise the Bunbury Recreation Ground as its base for the short term.

The South West Warriors Rugby League Club's application to join the 2nd Division of the WA Rugby League Association has been accepted for the 2010 season commencing in April 2010.

The Bunbury Recreation Ground has been identified as the preferred location as there are currently no winter sports played at the ground. The option of locating at Hay Park will clash with other traditional winter sports in relation to grounds and other facilities.

It is proposed the South West Warriors Rugby League Club will move to Hay Park following the completion of the new Athletics track and pavilion to make use of the infield pitch and club room facilities.

The club has registrations for 90 juniors and 75 seniors and propose to use the grounds on the following terms:

- Training: Wednesday and Friday 4.30-8.30pm
- Fixtures: Juniors: Sunday 9am-1pm three weekends per month
Seniors: Saturday 12-9pm one weekend per month

The club acknowledges the parking of motor vehicles on the grounds is prohibited and may require the overflow car park opposite the ground on game days.

The rugby field will not encroach on the turf wicket which will be fenced off for the winter months. Site plan is also **attached** at Appendix 5.

The City's Parks Coordinator has no objections for an initial six (6) month season to ascertain the condition of the ground and turf wicket with the advent of spring. Setup of the field, supply of goal posts, marking of the field lines and refuse containers and disposal is the responsibility of the Rugby Club.

The Bunbury and Districts Cricket Association have used the venue for many years.

Local community consultation was undertaken on the proposal with the 52 residences surrounding the Recreation Ground via a letter drop. Six submissions were received and are summarised in the table below.

Local Community Consultation

Method	Resident	Resident Feedback	Officer Comments
Letter	Yvonne Shannon 3/11 Symmons St Bunbury WA 6230	Delighted that at last the recreation ground is going to be well used	Not applicable
Email	Goff Family 11/3 Clifton St Bunbury WA 6230	No objection, though outlined some current issues with the Cricket Club with regard to language and not using toilet facilities	Not applicable
Email	Ms Oudendijk PO Box 1717	No objection, though highlighted issue of outside lights being left	The Bunbury Runners Club have been advised

	Bunbury WA 6230	on till late after cricket training and they shine into her house.	to ensure co-ground users are aware of the concern.
Email	Ms Bateman 9/3 Clifton St Bunbury WA 6230	No objection, though highlighted issue of parking on road reserves.	Concerns were relayed to the City's Parking Coordinator.
Letter	Ms Martin 19/3 Clifton St Bunbury WA 6230	Objected to the use of the recreation ground by an 'active' sport such as rugby.	Advised the zoning of the ground is for the purpose "Parks and Recreation" and includes active and passive pursuits.
Letter	Mr Hodgson 19/3 Clifton St Bunbury WA 6230	Objected to the use of the recreation ground as he feels it will limit the availability of the grounds for use by the general public. He also feels the rugby club will generate excessive noise and disturbance to the residents.	Advised lease clearly states the use of the premises and grounds for quiet enjoyment and the public will have sufficient opportunity to use the grounds when they are not in use.

The Lessee has complied with the provisions of the current lease.

Current Lease Details (Bunbury Runners Club)

Commencement :	20 November 1996
Term:	Six (6) years with a five (5) year option
Expiry Date:	31 March 2010
Lease Area:	Pavilion
Rental:	\$6,081.33 per annum inclusive of GST
Ground Fees:	Per member and invoice issued separately
Outgoings:	Responsibility of the Lessee
Insurance Requirements:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$5(M).
Ground Use:	Separate application to be made by the Lessee to the City's Events Scheduling Officer each season for approval
Special Conditions:	1. Mowing and marking the 500 metre running track 2. Painting and redecoration of shower floors and the veranda in the changeroom complex
Preparation of Lease:	Lessee to pay the full cost of document preparation and registration of the lease.

Proposed Renewal of Lease (Bunbury Runners Club)

Commencement :	1 April 2010
Term:	Five (5) years
Expiry Date:	31 March 2015
Lease Area:	Pavilion
Rental:	\$6,820 per annum inclusive of GST and indexed annually by CPI
Ground Fees:	Per member and invoice issued separately

Outgoings:	Responsibility of the Lessee
Insurance Requirements:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Ground Use:	Separate application to be made by the Lessee to the City's Events Scheduling Officer each season for approval
Special Conditions:	<ol style="list-style-type: none"> 1. Requirement for maintenance of the 500 metre running track and "grassed facilities" 2. Requirement for the Lessee to repair lifted or broken tiles in shower floors to the satisfaction of the Lessor. 3. Requirement for the Bunbury Agricultural Society to have the sole use of the Eastman Pavilion and surrounding grounds for the week either side of the Bunbury Horse and Country Music Show each year with remuneration to be paid to the Lessee for the use of electricity and water.
Preparation of Lease:	Lessee to pay the full cost of document preparation and registration of the lease.

The Lessee has allowed the Bunbury & Districts Cricket Association (Colts Cricket Club Inc.) use of the pavilion for several years. The parties have established mutually agreed terms and conditions and now seek Council's approval for the Bunbury & Districts Cricket Association to hold the sub-lease over the demised premises.

Proposed Sub-Lease Details (Bunbury & Districts Cricket Association)

Commencement :	1 April 2010
Term:	Five (5) years
Expiry Date:	31 March 2015
Lease Area:	Pavilion
Rental:	By mutual agreement with the Bunbury Runners Club Inc. based on seasonal use and not to exceed the proportion annual lease rental
Ground Fees:	Per member and invoice issued separately
Outgoings:	Responsibility of the Sub-lessee
Insurance Requirements:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Ground Use:	Separate application to be made by the Sub-lessee to the City's Events Scheduling Officer each season for approval
Special Conditions:	Requirement for the Bunbury Agricultural Society to have the sole use of the Eastman Pavilion and surrounding grounds for the week either side of the Bunbury Horse and Country Music Show each year with remuneration to be paid to the Lessee for the use of electricity and water.
Preparation of Lease:	The Sub-lessee to pay the full cost of document preparation and registration of the lease.

An application has also been received from the newly formed South West Warriors Rugby League Club Inc. to enter into a sub-lease over the demised premises.

Proposed Sub-Lease Details (South West Warriors Rugby League Club)

Commencement :	1 April 2010
Term:	Five (5) years
Expiry Date:	31 March 2015 (or earlier if an alternative venue is identified)
Lease Area:	Pavilion
Rental:	By mutual agreement with the Bunbury Runners Club Inc. based on seasonal use and not to exceed the proportion annual lease rental
Ground Fees:	Per member and invoice issued separately
Outgoings:	Responsibility of the Sub-lessee
Insurance Requirements:	The applicant to maintain Public Risk Insurance and General Insurance cover over the premises with Public Liability to be set at \$10(M).
Ground Use:	Separate application to be made by the Sub-lessee to the City's Events Scheduling Officer each season for approval
Special Conditions:	Requirement for the Bunbury Agricultural Society to have the sole use of the Eastman Pavilion and surrounding grounds for the week either side of the Bunbury Horse and Country Music Show each year with remuneration to be paid to the Lessee for the use of electricity and water.
Preparation of Lease:	The Sub-lessee to pay the full cost of document preparation and registration of the lease.

The Agricultural Society also uses the site annually for the Horse and Country Music Show and is, by mutual agreement, meeting reasonable outgoings during the show period.

Use of the surrounding grounds by each party is determined on a 'seasonal' basis through the City's Events Scheduling Officer.

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 provides a place where events are held and enjoyed by like-minded people, and encourages people to come to the region.

Community Consultation

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

Councillor/Officer Consultation

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

Analysis of Financial and Budget Implications

The proposal does not provide a financial impost on council.

The applicant will be responsible for costs associated with the preparation and registration of documentation associated with the renewal of the lease.

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 parties hold special events throughout the year which bring players from other areas to compete. This includes hosting and staging the Bunbury Marathon and the Bunbury Horse and Country Music Show each year. The visitors that are attracted to these events provide an economic-related stimulus to businesses in the area.

Social Issues

The venue provides each of the parties with the opportunity to socialise and co-exist with other community groups and organisations.

Environmental Issues

The proposal is in keeping with the prescribed passive recreational use of the venue.

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 notice of intention to grant the applicant a Deed of Lease will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at the City's Libraries, the Administration centre and on the City's website.

Delegation of Authority

The Chief Executive Officer has the delegated authority of Council to negotiate the terms and conditions of an application for renewal 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 Deed of Renewal of Lease.

Relevant Precedents

Since 1996, Council has granted the Lessee a lease over the demised premises.

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 Lessee to renew its lease over the Eastman Pavilion, Bunbury Recreation Ground, Port Lots 120, 121 and 122 Ocean Drive, Bunbury and/or to sub-lease the premises.

Conclusion

The Bunbury Runners Club Inc. has leased the site since 1976 and has satisfactorily fulfilled its obligations and responsibilities under the Lease during this time. The club provides an activity base for like-minded participation from local community members and visitors.

Recommendation

1. Council agrees to enter into a Deed of Lease with the Bunbury Runners Club Inc and enter into a sub-lease with the Bunbury and

Districts Cricket Association and South West Warriors Rugby League Club, over the Eastman Pavilion (located on a 500m² portion of Lots 120, 121 & 122 on Deposited Plan 222212 Ocean Drive, Bunbury), for a term of five (5) years subject to the terms and conditions as specified in the report and the following:

2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 and subject to Council granting the lease and sub-lease, the City will give notice of the intention to enter into a Deed of Lease for five (5) years which will be published in the City Focus column of the Bunbury Mail Newspaper, at the City's Libraries, the Administration centre and on the City's website.
3. The Deed of Lease and Sub-Lease documents be prepared and finalised.
4. The Bunbury Runners Club Inc., Bunbury and Districts Cricket Association and South West Rugby League Club to pay all costs associated with the lease application including document preparation, registration and rental assessment.

Outcome - Council Committee Meeting 23 February 2010

The Mayor called for any public speakers.

Mr Kevin Martin (Vice President of the Bunbury Runners Club Inc), 117 Gelorup Rise, Gelorup addressed the Committee. He stated that the Runners Club have been at the Recreation Ground for a number of years and would like to stay there. They are aware of the work that is being done at Hay Park with the new running track and have appreciated being asked for some input into the facility but as they are "road runners" it doesn't suit their needs. The sub-lessee is the Colt's Cricket Club not the Bunbury and Districts Cricket Association. The Runners Club are happy to have both the Cricket and Rugby at the ground as it would then enable the ground to be used all year round.

The Runners Club feel that they are not just for their members but for society in general as they encourage everyone to improve their health and take part in a number of programs that is run by their sponsor Healthways. As a condition of their lease they are to allow the Bunbury Agricultural Society to use the grounds for two weeks for shows. The details of costs etc will be worked out later.

Deputy Mayor Cr Kelly asked Mr Martin if the three Club's have or intend to have joint committee meetings in which to discuss any issues that are of concern to all three Clubs. Mr Martin stated that they have had joint committee meetings in order to sort out details of the lease agreements and he will certainly put forward the idea of continuing the joint meetings in the future but at this stage not sure as to the regularity that these meetings will occur.

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

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

Committee Recommendation

- 1. Council agrees to enter into a Deed of Lease with the Bunbury Runners Club Inc and enter into a sub-lease with the Colt's Cricket Club and South West Warriors Rugby League Club, over the Eastman Pavilion (located on a 500m2 portion of Lots 120, 121 & 122 on Deposited Plan 222212 Ocean Drive, Bunbury), for a term of five (5) years subject to the terms and conditions as specified in the report and the following:**
- 2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 and subject to Council granting the lease and sub-lease, the City will give notice of the intention to enter into a Deed of Lease for five (5) years which will be published in the City Focus column of the Bunbury Mail Newspaper, at the City's Libraries, the Administration centre and on the City's website.**
- 3. The Deed of Lease and Sub-Lease documents be prepared and finalised.**
- 4. The Bunbury Runners Club Inc., Colt's Cricket Club and South West Rugby League Club to pay all costs associated with the lease application including document preparation, registration and rental assessment.**

CARRIED

12 Votes "For" / Nil Votes "Against"

11.3 Appointment of Joint Marketing and Selling Agents for the Sale of Lot 66 Ocean Drive, Lot 210 & 211 Holywell Street and Pandal Street, Bunbury

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

Summary

The City wishes to appoint a REIWA registered real estate agent to market and sell the following City of Bunbury freehold lots;

- Lot 210 Holywell Street (Plan 643 - Certificate of Title 2050-866) & Lot 211 Pandal Street (Plan 643 - Certificate of Title 2139-321) being one land parcel.
- Lot 66 Ocean Drive on Diagram 31953 Certificate of Title, Volume 1436 folio 697

Background

Following approval for Town Planning Scheme Amendment No. 17 received from the Western Australian Planning Commission on 27 October 2009, The City advertised for REIWA-registered real estate agents to market and sell the landholdings jointly or separately. The successful Agent is to be engaged for a period of four (4) months. Further extension of time may be granted at the City's absolute discretion.

A total of seven (7) submissions have been received from the following firms and these are contained in the Confidential Report **under separate cover** that has been circulated to members:

- Joint Submission: Colliers International and Professionals Southern District Estate Agency
- Joint Submission: Commercial Realty and Jones Lang LaSalle
- Submission: CBRE (CB Richard Ellis)
- Submission: Remax Lighthouse Realty
- Submission: Raine & Horne Commercial
- Submission: LJ Hooker Real Estate
- Submission: Bunbury Land Estate Agency

The City's Manager of Administration and Property and Corporate Services Executive Manager have assessed each submission based on

the Selection Criteria. An independent assessment was also undertaken by a Certified Practising valuer being Hegney Property Valuations. Details and assessment results of each submission is contained in the Confidential Report and circulated to members **under separate cover**.

Strategic and/or Regional Outcomes

Strategic Outcome

Zoning of the land permits a mixture of uses suitable for commercial, tourism and residential development as detailed in Council's Town Planning Scheme No. 7, which should benefit the City both socially and economically. Development conditions will require a developer to submit a Detailed Area Plan for the sites before a development application is considered by the 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 sites are considered to be ideally located for tourist accommodation developments in view of proximity to:

- the Bunbury CBD;
- regionally significant recreational spaces and facilities;
- the beachfront, and;
- other existing amenities and tourist accommodation sites along Ocean Drive.

Community Consultation

Notices inviting REIWA registered real estate agents to submit a submission was advertised as follows:

- The West Australian, on 28 November 2009
- Bunbury Mail, on 9 and 16 December 2009
- South Western Times, on 3 and 10 December 2009
- Financial Review on 17 December 2009
- Distribution to all REIWA Bunbury branches
- City of Bunbury website, Administration building and both public Library notice boards.

Invitations were also extended to:

- Colliers International
- Jones Lang La Salle
- Knight Frank
- CB Richard Ellis
- Savills

Submissions closed on 18 January 2010.

Councillor/Officer Consultation

Council agreed to proceed with the sale of Lots 210 & 211 Holywell & Pandal Streets and Lot 66 Ocean Drive, Bunbury at the Council Meeting held on 9 February 2010.

Analysis of Financial and Budget Implications

The sale 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:

- 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
- Demolition/part refurbishment of the Historic Bunbury Timber Jetty

Each submission provides details of the Agents fee structure.

Life-cycle Maintenance Costs (Capital Works Projects Only)

Not applicable, as it is intended to sell 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 permits a mixture of uses to make land available in this location for short stay accommodation, commercial, tourism and residential development to benefit the City both socially and economically.

Permitted development on these sites is also expected to complement the range of existing tourist development sites and services located within the Back Beach precinct.

The sites' development into tourism related facilities should enhance the coastal strip and underpin the social benefits for the local residents and tourists.

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 sale of property.

Legislative Compliance

Council has complied with Section 3.59 of the Local Government Act 1997 by giving notice of intention to enter into a major land transaction.

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

Reject all submissions.

Comment: This is not supported by the evaluation panel.

Conclusion

The independent assessment conducted by Hegney Property Valuations recommends the appointment of Jones Land LaSalle and Commercial Realty Bunbury as joint partners for a term of four (4) months. Their submission has addressed the Selection Criteria and has demonstrated a proven record and sound understanding of critical issues associated with this project.

Recommendation

Council appoints Jones Land LaSalle - Commercial Realty Bunbury as the joint Marketing and Selling Agent to sell Lots 210 & 211 Holywell/Pendal Streets and Lot 66 Ocean Drive, Bunbury for a period of four (4) months with a possible extension of time granted at the City's absolute discretion.

Outcome - Council Committee Meeting 23 February 2010

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

Cr Jones moved an amendment, Cr Slater seconded, That 2% of the nett proceeds of the sales be reserved for the Land Rationalisation and Acquisitions Committee for the purpose of furthering the objectives of the Committee.

The amendment was put to the vote and carried 9 votes "for" to 3 votes "against". It was requested that the votes be recorded:

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

The Mayor put the entire motion (including the amendment) to the vote and was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

- 1. Council appoints Jones Land LaSalle - Commercial Realty Bunbury as the joint Marketing and Selling Agent to sell Lots 210 & 211 Holywell/Pendal Streets and Lot 66 Ocean Drive, Bunbury for a period of four (4) months with a possible extension of time granted at the City's absolute discretion.**
- 2. That 2% of the Nett proceeds of the sales be reserved for the Land Rationalisation and Acquisitions Committee for the purpose of furthering the objectives of the Committee**

CARRIED
11 Votes "For" / 1 Votes "Against"

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

11.4 Tender for Bunbury Bus Station Refurbishment (RFT 2009 2010-22)

File Ref:	A03951
Applicant/Proponent:	Internal Report
Author:	Mark Robson, Contract Coordinator
Executive:	Michael Scott, Executive Manager City Services

Summary

The City of Bunbury in conjunction with the Public Transport Authority has advertised for suitably qualified and experienced Civil Works contractors to under take some major upgrade works to the Bunbury Bus Station.

Background

Tender documents were prepared and advertised in *The West Australian* on 27 January 2010 and in the *South Western Times* on 28 January 2010. Tenders closed at 3:00pm on Thursday, 11 February 2010. The City's Executive Assistant City Life and the Contract Co-ordinator opened the tender box.

A total of 8 interested companies requested and received the tender documents.

At closing no tenders were received.

Critical factors

The commencement date for this project is considered to be critical due to the Public Transport Authority and Bunbury City Transit having notified the public of the alternate arrangements to reroute and reschedule all bus services whilst the alterations are taking place, the agreed start date is scheduled for Monday, 15 March 2010.

Funding for this project has been provided by The Public Transport Authority and a commitment to ensure expenditure of this funding is required by March 2010.

Negotiations are currently taking place between Councils Consultant Superintendent, the City Engineer and suitably experienced civil works contractors who have a proven track record with council and the Public Transport Authority so as to engage an experienced contractor who is able to comply with the commencement date and will represent best value for money.

Strategic and/or Regional Outcomes

Acceptance of the recommendation listed in this report is consistent with the City of Bunbury Strategic Plan 2007-2012, in continuing to maintain and service its assets and infrastructure.

Community Consultation

Community consultation was not carried out during this process. However the Public Transport Authority has advertised the refurbishment works commencing 15 March 2010 including the alternate routes for all Bus services.

Councillor/Officer Consultation

The tender specifications were developed in consultation with Councils Engineering staff, the Department of Public Transport and an independent consultancy firm.

Analysis of Financial and Budget Implications

Funding of \$377,000 for this project has been provided by the Public Transport Authority and is in trust with the City of Bunbury.

Life- cycle Maintenance Costs (Capital Works Projects Only)

The Public Transport Authority will be undertaking a maintenance program under the conditions of the lease agreement.

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."

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

Re-advertise this tender

Comment: This is NOT supported by the Tender Evaluation Panel as the programmed commencement date and commitment of funding are both critical factors for this project to proceed.

Conclusion

As no tenders were received by the closing date and the fact the commencement date is a critical factor with this joint project, the evaluation panel seeks approval for the Chief Executive Officer to have delegated authority to approve the engagement of the nominated contractor once negotiations have been finalised.

Recommendation

With respect to Tender RFT 2009 2010-22 for the Refurbishment works to the Bunbury Bus Station, the Council resolves to:

1. The Chief Executive Officer has delegated Authority to approve the engagement of the recommended contractor.
2. Record the outcome and details of the successful contractor in the City of Bunbury Tender Register.

Outcome - Council Committee Meeting 23 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

With respect to Tender RFT 2009 2010-22 for the Refurbishment works to the Bunbury Bus Station, the Council resolves to:

1. **The Chief Executive Officer has delegated Authority to approve the engagement of the recommended contractor.**
2. **Record the outcome and details of the successful contractor in the City of Bunbury Tender Register.**

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

11.5 Extension of Lease Over Portion Payne Park, Part Lot 100 on Deposited Plan 27546 Herbert Road to the Bunbury Football Club Inc.

File Ref:	F00050
Applicant/Proponent:	Bunbury Football Club Inc.
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manger Corporate Services

Summary

An application has been received from the Bunbury Football Club Inc. ("Lessee") seeking Council's consent to extend the Lease over portion of Payne Park (Lot 100 on Deposited Plan 27546 Herbert Road, Bunbury) for a further ten (10) year term with an option to renew for a further five (5) years. A location map is **attached** at Appendix 4.

Background

The Lessee has occupied its current site since 1973. The land is identified Lot 100 on Deposited Plan 27546 Herbert Road and owned by the City of Bunbury in Freehold Title, Certificate of Title Volume 1174 Folio 85 (on Plan 27546).

The current lease has invoked the "Holding Over" clause by mutual agreement, to take into consideration the recently received Hay Park Feasibility Study.

The Lessee has complied with the provisions of the current lease and is proposing to undertake the following capital works program at no cost to Council:

1. Refurbishment and potential reconstruction of the Time Keepers Box. *Timeframe for completion is one year.*
2. Full refurbishment of kitchen and canteen facilities to provide better facilities to meet current and future needs. *Timeframe for completion is two years.*
3. Replacement of the clubroom's existing roof and replaced with colorbond roofing, gutters etc to prevent continual water damage and leaking. *Timeframe is one year.*

The Club is also preparing to make application to Council, under separate cover, for future funding assistance with the following:

- Upgrade the entry gates to dual vehicle width to improve safety and allow easier movement of vehicles including buses, supply vehicles etc. *Timeframe is one year.*
- Improve the safety standards of the oval perimeter fence. *Timeframe for completion is one year.*

- Construct an indoor multi-sports venue as part of the demised premises. *Timeframe is three years* (to be considered in conjunction with the Master Plan for Payne Park).
- Provide full ground arena lighting to enable the Club to host night football matches and improve player safety. *Timeframe is three to five years.*

The Club is aware that during the proposed new term of the lease, the City may consider a Master Plan for Payne Park that could highlight further opportunities for other clubs and community organisations to co-exist with the Club on the site. The Club currently co-exists its netball side for training purpose in addition with Bunbury and Districts Little Athletics Association during the off-football season. This arrangement will come to an end when the B & DLAA relocates to the new athletic track at Hay Park. The proposal to enter into a new lease for the short to medium term does not conflict with the future use of the venue.

A review of the applicant's 2009 Annual Report indicates the applicant has a sound membership base and is well positioned to meet its proposed financial commitments.

Current Lease Details

Commencement:	1 January 1988
Term:	Ten (10) years with an option of a further ten (10) years
Expiry Date:	31 March 2010
Rental:	\$6,135 per annum (including GST and indexed annually by CPI)
Rent Review:	Every third anniversary date.
Outgoings:	Responsibility of the Lessee
Insurance:	Lessee to maintain Public Risk and General Insurance Policies for the lease area. Public liability to be set at \$2(M)

Proposed Extension of Lease Details

Commencement:	1 April 2010
Term:	Ten (10) years with an option to renew for a further five (5) years.
Expiry Date:	31 March 2020
Rental:	\$6,400 per annum inclusive 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: <i>Meet the proposed capital works program by the appointed</i>	<ol style="list-style-type: none"> 1. Refurbishment and potential reconstruction of the Time Keepers Box. <i>Timeframe for completion is one year.</i> 2. Full refurbishment of kitchen and canteen facilities to provide better facilities to meet current and future needs. <i>Timeframe for completion is two</i>

<i>timeframe.</i>	<i>years.</i> 3. Replacement of the clubroom's existing roof and replaced with colorbond roofing, gutters etc to prevent continual water damage and leaking. <i>Timeframe is one year.</i>
Document Preparation:	The applicant to pay full cost of document preparation and registration.

The City's Executive and the applicants have mutually agreed on the proposed terms and conditions of the extension of 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 Lessee provides a venue where events are held and enjoyed by like-minded enthusiasts, and promotes the venue at a Regional level.

Community Consultation

In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 and subject to council granting the Lease, the City will give notice of the intention to enter into a Deed of Lease for ten (10) [plus five (5)] years which will be published in the City Focus column of the Bunbury Mail Newspaper. Copies will also be displayed at 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

Items 1, 2, and 3 of the proposed Special Conditions do not provide a financial impost on Council. Further proposals seeking Council's financial assistance will be presented to Council under separate cover.

The applicant will be responsible for costs associated with the preparation and registration of documentation associated with the extension of the lease.

Life-cycle Maintenance Costs (Capital Works Projects Only)

The applicant is responsible for the routine maintenance and upkeep of the demised premises and its own capital improvements.

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 bring players from other areas to compete.

Social Issues

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

Environmental Issues

The proposal is in keeping with the amenity of the local area.

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 notice of intention to grant the applicant a Deed of Lease will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at the City's Libraries, the Administration centre and on the City's website.

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 1973, Council has granted the applicant a lease over the demised premises.

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 extend its lease over portion of Lot 100 Herbert Road, Bunbury.

Conclusion

The applicant has leased the site since 1973 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

1. Council agrees to enter into a Deed of Lease with the Bunbury Football Club Inc. over portion Lot 100 Herbert Road, Bunbury for a term of ten (10) years with a further five (5) year option subject to the terms and conditions as specified in the report:
2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 the granting of a new Lease will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, Administration centre and on the City's website.
3. Subject to no objecting submissions being received the Deed of Lease be finalised.
4. The Bunbury Football Club Inc. to pay all costs associated with the lease application including document preparation, registration and rental assessment.

Outcome - Council Committee Meeting 23 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

- 1. Council agrees to enter into a Deed of Lease with the Bunbury Football Club Inc. over portion Lot 100 Herbert Road, Bunbury for a term of ten (10) years with a further five (5) year option subject to the terms and conditions as specified in the report:**
- 2. In accordance with Regulation 30(2)(b) of the Local Government (Functions and General) Regulations 1996 the granting of a new Lease will be published in the City Focus column of the Bunbury Mail Newspaper, displayed at both the City's libraries, Administration centre and on the City's website.**
- 3. Subject to no objecting submissions being received the Deed of Lease be finalised.**
- 4. The Bunbury Football 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"

11.6 Bunbury Kart Club Inc. – Proposed Lease over Portion Reserve 670, Lot 500 South Western Highway, Bunbury (Bunbury Motorsports Precinct)

File Ref:	F00032
Applicant/Proponent:	Bunbury Kart Club Inc
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

An application has been received from the Bunbury Kart Club Inc. seeking a Renewal of Lease with the City of Bunbury over portion of Reserve 670, Lot 500 South Western Highway, Bunbury (part of the Bunbury Motor Sports Precinct), for a period of five (5) years. A location plan is **attached** at Appendix 3.

Background

The Bunbury Kart Club Inc. has occupied its current lease site since 1984. The land is identified as Lot 500 (Portion of Reserve 670) and is held by the City of Bunbury under Management Order 3051/883 (Crown Land Record Volume 3157 folio 002 on Plan 62343) for the purpose of “Recreation” 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 Lessee has invoked the “Holding Over” clause by mutual agreement to take into the consideration the recently received Hay Park Feasibility Study. The proposal to extend the term does not conflict with the short to medium use of the location.

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

The Lease area is situated within the Bunbury Motor Sports Precinct and comprises the clubrooms, a pit area, racing circuit and spectator car parking. The Bunbury Kart Club Inc. utilises other areas of the Motor Sports Precinct known as the “Common Gravel Area” and “Landfill Site” by agreement with other users at the precinct.

The Club has made many improvements to the leased premises over the years including building of clubrooms, pit shelters, track surfacing and lighting for night racing. Club membership covers people aged from

seven (7) years to seventy (70) years with approximately 37% of the Club's members comprising juniors (aged 7 to 17 years of age) – this group is the most active in Club competitions with 90% of juniors competing last year (compared with only 60% of the seniors).

Current Lease Details

Commencement Date:	1 November 2002
Term:	Five (5) years
Expiry:	31 October 2007
Rental:	\$2,234.23 (inclusive GST)
Rent Review:	Indexed by CPI annually
Outgoings:	Responsibility of the Lessee
Insurance:	The Lessee to maintain Public Risk and General Insurance Policies over the lease area. Public liability to be set at \$2(M).

Proposed Lease Details

Commencement Date:	1 November 2007
Term:	Five (5) years
Expiry:	31 October 2012
Rental:	\$2,700 (inclusive GST)
Rent Review:	Third anniversary date
Outgoings:	Responsibility of the Lessee
Insurance:	The Lessee to maintain Public Risk and General Insurance Policies over the lease area. Public liability to be set at \$10(M)
Special Conditions:	The Lessee to sign the Motor Sports Precinct Users Management Agreement (together with other users such as the Bunbury Car Club Inc., the Bunbury Motorcycle Club Inc., the South West Youth Driver Development Program and South West Touring Car Club Inc.) and to take part on the Bunbury Motor Sports Precinct Management Committee, to manage the following: a) day-to-day use and control of the leased areas, and; b) reciprocal public parking arrangements on the sites referred to as the "Common Gravel Area" and Landfill Site".
Document Preparation:	The Lessee to pay the full cost of document preparation and registration of the Extension of Lease.

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

This 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 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 Lease, the intention to enter into a 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.

Councillor/Officer Consultation

Council officers have held discussion with the applicant and have mutually agreed on the terms and conditions of the Lease.

Analysis of Financial and Budget Implications

The Lessee is responsible for payment of document preparation and registration costs.

The rental has been calculated on the utilised portion of the whole leased area i.e. clubrooms and track.

Life-cycle Maintenance Costs (Capital Works Projects Only)

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

Economic, Social, Environmental and Heritage Issues

Economic Issues

The Club provides facilities for participation in the sport of go-kart racing for people aged between 7 and 70 years and plays host to State Titles on a regular basis

Social Issues

The Club provides opportunities for social interaction between like-minded individuals.

Environmental Issues

The activities of the Lessee are in keeping with the defined activity of the area i.e. Motor Sport Precinct.

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 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 on the Land Administration Act 1997, the Office of the Minister of 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 a new 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

The Bunbury Kart Club Inc. has held the lease over these premises for the past 23 years. The Bunbury City Council last renewed the lease at its meeting on 22 October 2002.

Options

Option 1

Per the recommendation listed in this report.

Option 2

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

Option 3

Council refuses the application from the Bunbury Kart Club Inc. to Lease portion of Reserve 670 (Lot 500) South Western Highway, Bunbury being part of the Motor Sports Precinct.

Conclusion

The Bunbury Kart Club Inc. has leased the site for the past 23 years and has satisfactorily fulfilled its obligations and responsibilities under the lease during this time.

The Club maintains its facilities at the Bunbury Motor Sports Precinct to a very high standard that provides a direct community and social benefit both to its members (and their visitors and other users of the precinct).

Recommendation

1. Council agrees to lease portion of Reserve 670 (Lot 500) South Western Highway, Bunbury, to the Bunbury Kart Club Inc. for a term of five (5) years on the terms and conditions as specified in the report.
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. Subject to no objecting submissions being received the Deed of Lease be finalised.
4. The Bunbury Kart Club Inc. to pay all costs associated with the Lease application including document preparation, registration and rental assessment.

Outcome - Council Committee Meeting 23 February 2010

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

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

Committee Recommendation

1. **Council agrees to lease portion of Reserve 670 (Lot 500) South Western Highway, Bunbury, to the Bunbury Kart Club Inc. for a term of five (5) years on the terms and conditions as specified in the report.**
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. **Subject to no objecting submissions being received the Deed of Lease be finalised.**

- 4. The Bunbury Kart 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"

11.7 Local Government Statutory Compliance Return December 2009

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

Summary

Council is required to adopt the Statutory Compliance Return for the year 1 January 2009 to 31 December 2009, a copy of which has been circulated to Council **under separate cover**.

Background

Each year the Department of Local Government requires Council's to conduct an annual assessment of their compliance with key components of the Local Government Act 1995 and regulations and it is to be returned to the Department by 31 March 2010. Compliance has been achieved on all key components of the return for the period under review.

Strategic and/or Regional Outcomes

The recommended action aligns with Strategic Objective 2.1 of the City's Strategic Plan 2007-2012 and the following criteria:

"Ensure compliance with the City's statutory obligations".

Community Consultation

There is no community consultation required.

Councillor/Officer Consultation

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

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

Analysis of Financial and Budget Implications

There are no budgetary implications associated with this compliance return.

Economic, Social, Environmental Issues

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

Employment Outcome

There are no employment issues relevant to this matter.

Council Policy Compliance

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

Legislative Compliance

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

The last return (2008) was adopted by Council at its meeting held 24 February 2009.

Delegation of Authority

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

Relevant Precedents

The City of Bunbury has fulfilled its commitment to completing a Statutory Compliance Return each year since the inception of the process in 1997. The last return (2008) was adopted by Council at its meeting held 24 February 2009.

Options

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

EXECUTIVE RECOMMENDATION

Council adopts the Statutory Compliance Return for the City of Bunbury for the period 1 January 2009 to 31 December 2009 and authorises its endorsement by His Worship the Mayor and Chief Executive Officer.

Outcome - Council Committee Meeting 23 February 2010

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

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

Committee Recommendation

Council adopts the Statutory Compliance Return for the City of Bunbury for the period 1 January 2009 to 31 December 2009 and authorises its endorsement by His Worship the Mayor and Chief Executive Officer.

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

11.8 Report on Strategic Activities for Period Ended 31 December 2010

File Ref:	A00836
Applicant/Proponent:	Internal Report
Author:	Jack Dyson –Senior Administration Officer
Executive:	Ken Weary – Executive Manager Corporate Services

Summary

Council adopted the Corporate Strategic Plan 2007 – 2012 on 6 March 2007. A report on strategic activities identified in the Strategic Plan for the period 1 July 2009 to 31 December 2009 is circulated **under separate cover**.

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

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

1. Improve relationships with state, federal and other local governments.
 - 1.1 Place Bunbury and the South West on the Minutes for the Federal Regional Development Council
 - 1.2 Develop a program of meetings with key State and Federal Government representatives.
 - 1.3 Develop a regional taskforce with key players.
 - 1.4 Establish a City Vision Implementation Taskforce.
2. Strengthen the City of Bunbury's governance and leadership.
improve Accountability
 - 2.1 Develop a councillor professional development program
 - 2.2 Implement 5 Year Financial Planning
 - 2.3 Operate Council's land and facilities portfolio as a capital efficient investment
 - 2.4 Improve the level and quality of Customer Service.
3. Deliver major capital projects on time and on budget.
 - 3.1 Develop project management framework
 - 3.2 Have well planned, developed and maintained City Infrastructure.
4. Implement City Vision
 - 4.1 Finalise City Vision Strategy
 - 4.2 Implement City Vision Strategy
5. Promote ecological sustainable development of the City's built and natural environment.
 - 5.1 Protect Bunbury's Natural, Cultural and Built Heritage

- 5.2 Promote Sustainability and Improve Council's Environmental Performance
- 5.3 Provide a cohesive system of integrated land use planning; and

- 6. Develop Social Capital
 - 6.1 Celebrate and reinforce a positive sense of community
 - 6.2 Community participation, partnership and support
 - 6.3 Community planning and infrastructure
 - 6.4 Community safety
 - 6.5 Social inclusion and needs
 - 6.6 Information and Lifelong Learning.

Recommendation

The report on Strategic Activities for the period ended 31 December 2009 be received.

Outcome - Council Committee Meeting 23 February 2010

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.

Committee Recommendation

The report on Strategic Activities for the period ended 31 December 2009 be received.

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

11.9 Financial Statements - January 2010

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

Summary/Background

Financial Statements for the period ending 31 January 2010, 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 January 2010, be received.

Outcome - Council Committee Meeting 23 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 January 2010 be received.

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

11.10 Advisory Committee and/or Project Control Group Minutes to be Noted at the Council Committee Meeting *(was listed as item 11.10 on the meeting agenda)*

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

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

Recommendation

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

1. Title: Minutes –Bunbury Environment and Sustainability Advisory Committee (04/02/2010)
Author: Ben Deeley
File: A02445
2. Title: Minutes – Access Management Committee (16/02/2010)
Author: Stewart Parkinson
File: A02590

Outcome - Council Committee Meeting 23 February 2010

Deputy Mayor Cr Kelly pointed out that it was the Asset Management Committee not the Access Management Committee.

The recommendation (as amended) was moved Cr Punch, seconded Cr Leigh.

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

(Full Committee Recommendation overleaf)

Committee Recommendation

1. **Title: Minutes –Bunbury Environment and Sustainability
 Advisory Committee (04/02/2010)**
 Author: Ben Deeley
 File: A02445

2. **Title: Minutes - Asset Management Committee
 (16/02/2010)**
 Author: Stewart Parkinson
 File: A02590

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

11.11 Items to be Noted (No Discussion) at the Council Committee Meeting

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	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: Schedule of Accounts Paid for the Period 1 January 2010 to 31 January 2010
Author: David Ransom
File: A00083

Outcome - Council Committee Meeting 23 February 2010

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

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: **Schedule of Accounts Paid for the Period 1 January 2010 to 31 January 2010**
Author: **David Ransom**
File: **A00083**

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

12. Motions on Notice

12.1 Motion on Notice - Options for Transplant of Landmark Moreton Bay Fig Tree Lot 193 (No. 25) Symmons Street, Bunbury - Significant Tree Register

File Ref:	A00217
Applicant/Proponent:	Councillor Whittle
Author:	Councillor Whittle
Executive:	<i>If adopted by Council refer to:</i> Michael Scott, Executive Manager City Services

Cr Whittle submitted the following motion prior to finalisation of the meeting agenda:

- "1. *City Services officers to report to Council regarding options, budget estimates and potential funding sources for the transplant of the Moreton Bay Fig Tree currently located at the rear of Josephine's Restaurant, Lot 193 (No. 25) Symmons Street, Bunbury - the report to include expert opinion(s) regarding the probability of success for transplantation of this species of tree and possible locations for re-planting.*
2. *The report is to be provided to councillors at a Briefing Session prior to (date to be recommended by CEO)"*

Comments - Cr Whittle

In support of his motion, Cr Whittle states that:

"The owners of Josephine's Restaurant approached the City of Bunbury and Bunbury City Council in 2009 as they wished to remove the large Moreton Bay Fig Tree located at the rear of the restaurant located at 25 Symmons Street, Bunbury. The request was made as the tree was causing problems with the rear car park and threatening the restaurant building and underground services. The preservation of the tree had been a condition of a previous development approval.

As it is apparent that the Moreton Bay Fig Tree will continue to cause issues with surrounding buildings and assets on adjoining properties, it would be prudent to explore the option of transplanting the tree, if at all possible, as the City has the potential to gain a landmark tree in another location if the transplant is successful.

The tree does not have any historical value but the City would in fact, be 'buying' a landmark tree."

Executive Comments - Executive Manager City Development

At its meeting on 10 February 2009, the Council made the following decision:

Council Decision 17/09

Council, under the Planning and Development Act 2005, resolves not to approve the application from Charles Daqui to remove an existing Moreton Bay Fig tree from the rear of his property at Lot 193 (No. 25) Symmons Street, for the following reasons:

- 1. The tree is included on the Significant Tree Register in the City of Bunbury Municipal Inventory. All trees in the Register are recommended for a high level of protection under the Town Planning Scheme.*
- 2. Condition 12 of the original development approval for the existing restaurant dated 31 December 1993, states that, "the existing Moreton Bay Fig Tree in the south eastern corner of the site to be retained and maintained to the satisfaction of the Manager Parks and Gardens".*
- 3. It is considered that the tree provides a significant visual element for the area at the rear of surrounding properties with commercial buildings fronting streets in the CBD.*
- 4. The proposal is inconsistent with Clause 10.2.1 of City of Bunbury Town Planning Scheme No. 7 part (i) with regard to the compatibility of a use or development with its setting.*
- 5. The proposal is inconsistent with Clause 10.2.1 of City of Bunbury Town Planning Scheme No. 7 part (v) with regard to whether any trees or other vegetation on the land should be conserved.*

It is suggested that before the members of Council move Cr Whittle's Motion on Notice, a decision on whether to rescind Council Decision 17/09 needs to be made pursuant to Regulation 10(1a) of the Local Government (Administration) Regulations 1996, which reads as follows:

"(1a) Notice of a motion to revoke or change a decision referred to in sub-regulation (1) is to be signed by members of the council or committee numbering at least one-third of the number of offices (whether vacant or not) of members of the council or committee inclusive of the mover."

Accordingly, should the Council elect to proceed to rescind Council Decision 17/09, a formal Notice of Motion to **consider** rescinding the previous decision (signed by at least five councillors) needs to be submitted. Following this, a further motion to actually **rescind** Council Decision 17/09 would then need to be supported by an absolute majority of the Council at a meeting.

Cr Whittle's Motion

1. City Services officers to report to Council regarding options, budget estimates and potential funding sources for the transplant

of the Moreton Bay Fig Tree currently located at the rear of Josephine's Restaurant, Lot 193 (No. 25) Symmons Street, Bunbury - the report to include expert opinion(s) regarding the probability of success for transplantation of this species of tree and possible locations for re-planting.

2. The report is to be provided to councillors at a Briefing Session prior to (date to be recommended by CEO).

12.2 Motion on Notice – Formation of A Timber Jetty Project Execution – Project Control Group

File Ref:	A00502
Applicant/Proponent:	Councillor Noel Whittle
Author:	Councillor Noel Whittle
Executive:	<i>If adopted by Council refer to:</i> Greg Trevaskis, Chief Executive Officer

Cr Whittle submitted the following motion prior to finalisation of the meeting agenda:

"A Timber Jetty Project Execution - Project Control Group will be formed for the duration of the Timber Jetty project. The role for the PCG will include the following tasks, and others that may be identified and agreed by Council. The PCG will comprise the CEO, 3 Councillors, and other staff as required."

Comments - Cr Whittle

Further details to be provided at the meeting.

Executive Comments

The Executive would suggest the establishment of an "Advisory Committee" as opposed to the establishment of a "Project Control Group" (PCG). This arrangement would meet Cr Whittle's objective and comply with the provisions and intent of the Local Government Act.

As advised to the Council Committee Meeting held 23 February 2010, the establishment of a PCG is, according to legal opinion received is illegal as Council has no power to appoint such a group.

The legal advice received identified that the establishment of a PCG is an option of the City Administration rather than a power of Council.

In establishing an Advisory Committee, Terms of Reference need to be clearly identified, along with tenure of membership etc.

Cr Whittle's Motion

A Timber Jetty Project Execution - Project Control Group will be formed for the duration of the Timber Jetty project. The role for the PCG will include the following tasks, and others that may be identified and agreed by Council. The PCG will comprise the CEO, 3 Councillors, and other staff as required.

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

12.3 Motion on Notice – Municipal Police

File Ref:	A00217
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>If adopted by Council refer to: Greg Trevaskis, Chief Executive Officer</i>

Cr Steck has given notice that she intends to move the following motion at the Council Committee Meeting on 2 March 2010:

- “1. *Council to expand the terms of reference of civic duties to include “Municipal Police.*

2. *That a subcommittee of Council be formed to define:*
 - a) *Duties of Municipal Police*
 - b) *Investigate Funding Opportunities*
 - c) *Discover Wages/Payments etc*
 - d) *Clearly Define – Employment Ready ie: Must be qualified – security licence etc*
 - e) *Investigate Uniforms Cost*
 - f) *Any other matter the committee deems relevant*

3. *The committee report back to council in time for the 2010 budget.*

4. *Council determine the terms of reference of the Subcommittee to include memberships in accordance with the Local Government Act.”*

Comments - Cr Steck

In support of her motion, Cr Steck states that, “Many Local Government Councils across Western Australia are experiencing difficulty in reducing undesirable behaviour in night spots and graffiti prone areas. Bunbury is no exception and in recent times weekends are becoming quite dangerous. Every Monday morning there is several blood stained areas on pavements along Victoria Street.

It seems council is having difficulty with being able to co-ordinate police presence in trouble areas, mainly over weekends. At present policing is not part of the core business of council and we have no jurisdiction to direct police to be present and to follow council requests in areas council designate as trouble spots. Never the less, safety inside the CBD has become as issue for council.

I propose that Council expands the terms of reference in operations to create “Municipal Police” to carry out minor policing duties identified by council.

The new Police proposed for the community are not fully qualified Police, but do have security training and will be paid less than State Police. There are many security guards who would already qualify for the role. Some

may even choose to work part-time for council and up the mines during weekdays to supplement income earnings. Other sources to attract staff could be retired police.

The purpose of Municipal Police is to monitor areas and move crowds on if necessary and in extreme difficulty to call for State Police. Other duties include deterring vandalism and graffiti, issuing parking and minor traffic conviction infringements, street fines for loud offensive behaviour like swearing, throwing bottles etc.

By having a greater Police presence, council is addressing the issue in a preventative way, rather than a reactive way.

Crowds, in our community and neighbouring communities will be sent a very loud and clear message that unruly behaviour in Bunbury will not be tolerated and safety and security to persons and business is one of our highest priorities. It will improve the conditions within the streets and provide the opportunity for persons to enjoy a night out knowing that Bunbury is far safer. For business owners, it provides greater piece of mind.

Recently the Western Australian State Police has announced that the presence of police in parades, closing off streets and monitoring traffic, will be reduced in numbers and that Perth Council will have to start making provisions for their own traffic control. This decision by Western Australian Police was realised, as too many Police resources are committed to these types of events which hinders Police to undertake main policing duties. This decision, in my view is an operational change for Police and we as a council, should be addressing the issue.

In the past Council used to have our own traffic police and the role of Municipal Police will carry out some of those duties. I expect that Municipal Police will have a tourism function too, as visitors are more likely to approach them for information and feel safe.

Other benefits are, they will become the eyes on the ground and drug deals in the streets will be minimised and any emerging trends might be easily identified sooner.

I will be seeking some costs for the program from the Chamber of Commerce, the South West Development Commission, Local Government Minister and State Police Minister.

This program is also about changing street and evening culture in our city. I believe Melbourne has a similar program.

I can't see why Bunbury City can't take the lead role here and create a pilot programme for Western Australia.

Finally, Municipal Police will wear a uniform with the appropriate bagging to be easily identified within the community."

Executive Comments

Nil

Cr Steck's Motions

1. Council to expand the terms of reference of civic duties to include "Municipal Police.
2. That a subcommittee of Council be formed to define:
 - a) Duties of Municipal Police
 - b) Investigate Funding Opportunities
 - c) Discover Wages/Payments etc
 - d) Clearly Define – Employment Ready ie: Must be qualified – security licence etc
 - e) Investigate Uniforms Cost
 - f) Any other matter the committee deems relevant
3. The committee report back to council in time for the 2010 budget.
4. Council determine the terms of reference of the Subcommittee to include memberships in accordance with the Local Government Act.

13. Urgent Business *(With Approval of Majority of Members Present as Permitted Under Standing Order 5.1.13)*

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

NOTE: Pursuant to Standing Order 15.10, the following Procedural Motion needs to be moved if there are items to be discussed under this heading: *"The meeting exclude members of the public to permit Confidential Business (as defined by the Local Government Act 1995) to be discussed."*

15.1 Contract of Sale – Lot 102 Spencer Street, Bunbury (Former Perth Dental Clinic Site)

File Ref:	A00420
Applicant/Proponent:	Cantalupo Pty Ltd (CAN 141 967 679) & Tony Monaco
Author:	John Beaton, Manager Administration & Property
Executive:	Ken Weary, Executive Manager Corporate Services

A confidential report and recommendation has been circulated to members under separate cover.

15.2 Motion on Notice (Part 1) - Greater Bunbury Region Scheme Amendment (Eastside)

File Ref:	A00217
Applicant/Proponent:	Internal Report
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Committee Members to refer to the Confidential Report and recommendation circulated under separate cover.

15.3 Motion on Notice (Part 2) - Greater Bunbury Region Scheme Amendment (Eastside)

File Ref:	A00217
Applicant/Proponent:	Internal Report
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Committee Members to refer to the Confidential Report and recommendation circulated **under separate cover**.

16. Close of Meeting