

Council (Standing) Committee

Minutes

7 September 2010

Committee Terms of Reference *(last updated 24/11/09)*

1. To review reports and recommendations that is to be submitted to a meeting of the Council and (where appropriate) make alternative recommendations to those recommendations listed in the reports.
2. To request additional information necessary to assist the members of Council in making a decisions.
3. To make reference to appropriate legislation, Council's policies, local laws and the Strategic Plan when making Committee Recommendations to Council.



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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

Council (Standing) Committee Notice of Meeting

Minutes of an Ordinary Meeting of the Council (Standing) Committee held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 7 September 2010.

Minutes 7 September 2010

Members of the public to note that recommendations made by this committee are not final and will be subject to adoption (or otherwise) at a future meeting of the Bunbury City Council.

1. Declaration of Opening by the Presiding Member

The meeting was declared open at 5.59pm

2. Record of Attendance, Apologies and Leave of Absence

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor B Kelly
Members:	Councillor J Jones
	Councillor S Craddock
	Councillor W Major
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck (arrived late 7.45pm during item 11.11)
	Councillor A Leigh
	Councillor J Harrop
	Councillor D Spencer
Councillor K Steele	
Executive Management Team (Non-Voting)	
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Fitzgerald (Acting EMCD)
Executive Manager City Life:	Mr D Marzano

Council Officers (Non-Voting):	
Parking Coordinator	Mr N Dyer
Youth Development Officer	Mr A Rigg
Acting Senior Manager Development Services	Mr T Farnsworth
Admin. Officer Corporate Services:	Ms N Hribar
Others (Non-Voting):	
Members of the Public:	13 (approx.)
Members of the Press:	2

APOLOGIES:

Cr Steck was running late but will be there (*she arrived during item 11.11 at 7.45pm*)
Mr G Klem, appointed Acting CEO, was an apology for the meeting.

3. Responses to 'Public Questions' from the Previous Council Committee Meeting not Answered at that Meeting

Nil

4. Public Question Time

Ms S Kay, 29B Haig Crescent, Bunbury

Question: (*Regarding Lot 66 Ocean Drive*) *How does this planned development comply with the City of Bunbury Town Planning Scheme? And How can Council approve of a Hotel being built adjacent a High School?*

Response: (The Mayor) As you maybe aware, immediately below the High School there is a lot of land already zoned for a Hotel development. The offer made by the buyer in this instance is conditional on that buyer obtaining approval for a Hotel and a Hotel licence. In our view and in view of the strategy's that have been developed in relation to tourism, one of the shortages that we have in Bunbury is in terms of Hotel accommodation and that particular area from Baldock Street right through to almost the Catholic cemetery has always been identified as a potential Hotel and Resort area.

Mr R Gibbs, 29B Haig Crescent, Bunbury

Question: (*Regarding Lot 66 Ocean Drive*) *How does the planning information package not reference Planning SP2.6 which is the Coastal Planning*

requirements which this property must comply with given its proximity to the ocean?

Response: (Acting EMCD) The actual issue that is raised in regards to compliance with State Planning Policy was particularly addressed through Scheme Amendment process that has gone through some time well before the contracting process in regards to the sale of the land. It doesn't have a statutory component in regards to that. It was assessed against State Planning Policy 2.6 as part of that Scheme Amendment rezoning.

Question: *Given that this is going to be incorporated in the terms of sale, it's going to become a condition of sale, is the City by failing to refer to that planning provision in the information given in the first place, not only exposing itself to litigation later when the purchaser discovers that in fact they can't achieve a planning approval in the 180 days framework or ever because this provides it will never meet all the planning requirements?.*

Response: (The Mayor) It's normal in these sorts of contracts for there to be what are called requisitions; I'm sure the person representing the purchaser will make requisitions to Council in relation to matters of that ilk. Especially as they're considerably referred to in the items of planning constraints.

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

Nil

6. Confirmation of Previous Minutes

The minutes of the Council (Standing) Committee Meeting held 17 August 2010, have been circulated.

Recommendation

The minutes of the Council (Standing) Committee Meeting held 17 August 2010, be confirmed as a true and accurate record.

Outcome – Council Committee Meeting 7 September 2010

The recommendation was moved Cr Leigh, seconded Cr Harrop and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

The minutes of the Council (Standing) Committee Meeting held 17 August 2010, be confirmed as a true and accurate record.

CARRIED
12 votes "for" / Nil votes "against"

7. Disclosures of Interest under the Local Government Act 1995

Cr Steele disclosed an impartial interest in the item '*Proposed Single House – Lot 240 (No. 3) Lumper Street, Bunbury*' as she is friends with the owner. She has elected to stay, participate in the discussion and vote on the item. The Mayor put to the vote that Cr Steele be allowed to stay, participate and vote – 11 votes "for" / Nil votes "against" CARRIED.

Cr Steele disclosed a financial interest in the item '*Bunbury Parking Petition*' as she works at Centrelink which has a vested interest in the parking issue. She has elected to stay, participate in the discussion and vote on the item. The Mayor put to the vote that Cr Steele be allowed to stay, participate and vote – 9 votes "for" / 2 votes "against" CARRIED.

Cr Craddock disclosed an impartiality interest in the item '*Christmas Extended Trading Hours 2010*' as he is a retailer in the CBD and has an interest in common with other retailers. He has elected to stay, participate in the discussion and vote on the item. The Mayor put to the vote that Cr Craddock be allowed to stay, participate and vote – 10 votes "for" / 1 vote "abstain" CARRIED.

Cr Major disclosed an impartiality interest in the item '*Offer to Purchase Lot 66 Ocean Drive Bunbury*' as he is an employee of a person who lodged a submission in objection to the sale of the subject land. He has elected to vacate the chambers and not participate in the discussion nor vote on the item. The Mayor put to the vote that Cr Major be allowed to leave the meeting and not participate or vote – 9 votes "for" / 2 votes "against" CARRIED.

8. Announcements by the Presiding Member (No Discussion Permitted)

I am sure that all Councillors are aware that we have a Prime Minister and a Government as a result of certain decisions made today.

9. Chief Executive Officer Reports/Discussion Topics

9.1 Request for Leave of Absence – Councillor Noel Whittle *(was listed as item 9.1 on the meeting agenda)*

File Ref:	A00215
Applicant/Proponent:	Councillor Noel Whittle
Author:	Geoff Klem, Acting Chief Executive Officer
Executive:	Geoff Klem, Acting Chief Executive Officer
Attachments:	Nil

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Noel Whittle is granted leave of absence from all Council-related business from 12 October to 18 October 2010 (inclusive).

Summary/Background

Councillor Noel Whittle requests leave of absence from all Council-related business from 12 October to 18 October 2010 to attend the Bike Futures Conference in Melbourne, Victoria.

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

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Noel Whittle is granted leave of absence from all Council-related business from 12 October to 18 October 2010 (inclusive).

CARRIED
12 votes "for" / Nil votes "against"

9.2 Request for Leave of Absence – Councillor Karen Steele *(was listed as item 9.3 on the meeting agenda)*

File Ref:	A00215
Applicant/Proponent:	Councillor Karen Steele
Author:	Geoff Klem, Acting Chief Executive Officer
Executive:	Geoff Klem, Acting Chief Executive Officer
Attachments:	Nil

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Karen Steele is granted leave of absence from all Council-related business from 12 October to 16 October 2010 (inclusive).

Summary/Background

Councillor Karen Steele requests leave of absence from all Council-related business from 12 October to 16 October 2010 to attend the International Cities, Town Centres & Communities Society Conference in Coffs Harbour, New South Wales.

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

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Karen Steele is granted leave of absence from all Council-related business from 12 October to 16 October 2010 (inclusive).

CARRIED
12 votes "for" / Nil votes "against"

9.3 Request for Leave of Absence – Councillor Stephen Craddock *(was listed as item 9.2 on the meeting agenda)*

File Ref:	A00215
Applicant/Proponent:	Councillor Stephen Craddock
Author:	Geoff Klem, Acting Chief Executive Officer
Executive:	Geoff Klem, Acting Chief Executive Officer
Attachments:	Nil

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Stephen Craddock is granted leave of absence from all Council-related business from 12 October to 16 October 2010 (inclusive).

Summary/Background

Councillor Stephen Craddock requests leave of absence from all Council-related business from 12 October to 16 October 2010 to attend the International Cities, Town Centres & Communities Society Conference in Coffs Harbour, New South Wales.

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

Outcome – Council Committee Meeting 7 September 2010

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

Cr Craddock requested that the following dates be added to the recommendation; 24 October to 5 November 2010. The mover and seconder agreed to the amendment.

The Mayor put the motion (as amended) to the vote and was adopted to become the Committees recommendation on the matter.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Stephen Craddock is granted leave of absence from all Council-related business from 12 October to 16 October 2010 (inclusive) and from 24 October to 5 November 2010 (inclusive).

CARRIED
12 votes "for" / Nil votes "against"

10. Reception of Formal Petitions and Memorials

Nil

11. Reception of Reports and Recommendations from Officers & Advisory Committees

11.1 Advertising Device Application, Lot 19 Australind Bypass (Approach to Bunbury) *(was listed as item 11.3 on the meeting agenda)*

File Ref:	A0234-32 DOC/1033
Applicant/Proponent:	Riverside Signs / J W Cross
Author:	Gary Bruhn, Development Services, Building Coordinator
Executive:	Geoff Klem, Executive Manager City Development
Attachments:	Appendix 1

Recommendation

That Council approve the application to display an advertising device being a billboard, subject to standard conditions to the satisfaction of the Senior Manager Development Services.

Summary

Management of the Dolphin Discovery Centre have submitted an application to construct a billboard advertising the Dolphin Discovery Centre. The proposal consists of a tourist orientated billboard to attract through traffic toward the City and direct people generally towards the Dolphin Discovery Complex and the Town Centre. The billboard Sign is proposed to be erected on Lot 19 Australind Bypass Moorlands. (Copy of site plan **attached** at Appendix 1)

Background

The Dolphin Discovery Centre is becoming a major tourist attraction in the South West. Recently plans have been lodged for a major expansion to the Centre and when opened will entice patrons from other areas in Australia to Bunbury. Bunbury is now an easy drive from Perth via the new Forrest Highway. Tourism may increase over the next few years and this advertising device will be a small part of the necessary invitation to motivate and alert tourists to stop.

Proposal

The proposal consists of a billboard 4.82 metres x 2.42 meters and measures 3.32 metres to the top of the structure. Located on the North East corner of Lot 19

Australind Bypass, Moorlands situated on the property 10 metres from both the Northern and Western boundaries.

Management of the Dolphin Discovery Centre has submitted an application to construct a billboard advertising the Dolphin Discovery Centre. The proposal is to erect the billboard on Lot 19 Australind Bypass (Copy of site plan **attached** at Appendix 1).

Officer Comments

Normally Third Party advertising would be refused out right especially with billboard type advertising. However on this occasion it is considered there is sufficient merit for Council to consider approval due to the potential benefits to the City and the Community. Our region is growing and associated with this application private parties are funding this advertising device to improve the City's catchments capabilities for tourists.

Tourism WA's Destination Development Strategy 2007-2017 identifies three (3) iconic experiences for Bunbury which includes the Dolphin Discovery Centre.

The City's own Local Planning Strategy 2009-2014 for Tourism states that the Australind Bypass is the entrance, arrival point and the physical network connection that links the South West Region.

Strategic and/or Regional Outcomes

A key element of the City's Local Planning Strategy is the Vision Statement. This statement includes the following:

"As the major Regional City for the Southwest of Western Australia, Bunbury will continue contributing to the economic wellbeing of the Region through a sustained commitment to tourism. It will aspire to promote the Regions diversity, attractions and activities to enhance the visitors' experience while embracing the City's lifestyle and culture".

Analysis of Financial and Budget Implications

No implications

Life-cycle Maintenance Costs (Capital Works Projects Only)

Any ongoing maintenance and associated costs in relation to the approval of a large billboard sign application shall be the sole responsibility of the landowner.

Economic, Social, Environmental and Heritage Issues

While the City should consider the possibility of proliferation of large billboards, on this occasion it is considered to have positive benefits for both economic and social reasons. There are no adverse environmental impacts considered relevant. Likewise there are no heritage issues involved.

Legislative Compliance

The City of Bunbury, Local Law Relating to Advertising Devices, 2.1, *Discretionary Approvals*, states in part:

“When it is established that an advertisement:

- Is not of a type specifically provided for in this Policy.
- Is identified as an Impact Assessable Advertisement in Table One or Table Two.
- Is identified as Subject to Council Approval Advertisement in Table One or Table Two.
- Exceeds a relevant maximum area.
- Fails to comply with the other provisions of this Policy.

It may be licensed, at Council’s discretion and subject to such conditions as the Council may think fit, if the advertisement is innovative, well designed, creative an attractive feature and/or a spectacle in its own right, and not properly provided for in the Policy.

The Authorised Person shall be satisfied that such an advertisement is consistent with the objectives of this Policy despite its non – compliance”.

Delegation of Authority

At officer level, the City does not have the level of delegation appropriate to determine a sign of this nature on the door step of Bunbury.

Relevant Precedents

There are several large billboards on the approaches to Bunbury that welcome visitors and inform tourists. This Advertising Device is in keeping with the objectives of the policy and carries a positive message similar to the others already constructed.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council determine to refuse the Application for a licence to erect and display a large bill board that incorporates third party advertising as it is inconsistent with Council’s policy.

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee’s recommendation on the matter.

Committee Recommendation

That Council approve the application to display an advertising device being a billboard, subject to standard conditions to the satisfaction of the Senior Manager Development Services.

CARRIED
12 votes "for" / Nil votes "against"

11.2 Draft Tuart Brook Structure Plan and Scheme Amendment 44 to Town Planning Scheme No. 7 – Initiation and Advertising *(was listed as item 11.7 on the meeting agenda)*

File Ref:	A03923
Applicant/Proponent:	City of Bunbury
Author:	Neville Dowling, Consultant Strategic Planner Thor Farnworth, Coordinator Strategic & Environmental Planning
Executive:	Geoff Klem, Executive Manager City Development
Attachments:	Report Under Separate Cover

Recommendation

That Council resolves as follows:

1. Pursuant to the *Planning and Development Act 2005* and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7, publicly advertise the proposed draft Tuart Brook Structure Plan for a period of 60 days.
2. Following public advertising of the proposed draft Tuart Brook Structure Plan, the proposal and any public submissions lodged with the City of Bunbury during the advertising period, are to be returned to Council for its further consideration.
3. Pursuant to the *Planning and Development Act 2005* initiate Scheme Amendment 44 to the City of Bunbury Town Planning Scheme No. 7.
4. Refer Scheme Amendment 44 documentation to the Environmental Protection Authority for its assessment in accordance with the provisions of Section 81 of the *Planning and Development Act 2005*.
5. Following the consent of the Western Australian Planning Commission and the Environmental Protection Authority, publicly advertise Scheme Amendment 44 for a period of 60 days in accordance with the *Town Planning Scheme Regulations 1969*.

Summary

Since November 2007 the consulting firm The Planning Group WA Pty Ltd (TPG), acting on behalf of the Department of Housing (DoH), has been in consultation with City of Bunbury in relation to the preparation of the draft Tuart Brook Structure Plan. Finalisation of a draft structure plan has not taken place until recently, as there have been significant environmental, drainage and infrastructural issues to be addressed prior to the formal lodgement of a structure plan that was ready for public advertising.

Following an extensive structure planning process undertaken in conjunction with Development Services staff, it is now considered that the draft Structure Plan is in a suitable form to be advertised. A hard copy of the structure plan map is provided in Attachment 1 **under separate cover**. Given the extensive amount of documentation, a compact disc (CD) copy of the full proposed draft Tuart Brook Structure Plan

document (text and maps), the consultants structure plan report and supporting appendices have been provided in Attachment 2 **under separate cover**, from which hard copies can be produced of relevant extracts as required.

To enable timely and efficient implementation of the proposed draft Structure Plan whilst still ensuring sound administration of the City of Bunbury Town Planning Scheme No. 7 (TPS7) - it is also proposed to concurrently undertake a revision of structure plan provisions. Scheme Amendment number 44 to TPS7 simply seeks to rationalise the disparate provisions of the Scheme dealing with structure planning by consolidating them into one part of the Scheme in a standardised format that is in accordance with the Western Australian Planning Commission's (WAPC) Planning Bulletin #37 - Draft Model Text Provisions for Structure Plans (February 2000).

Scheme Amendment 44 will ensure consistency of approach in the specifying, adoption and operation of structure plans to ensure a more coherent and effective mechanism for dealing with applications for planning approval in accordance with adopted and endorsed structure plans. Most local governments in Western Australia undertaking Scheme reviews since February 2000 have adopted the Draft Model Text Provisions for Structure Plans as prescribed by the WAPC.

A crucial benefit of employing the Model Scheme Text Provisions is that it enables adopted and endorsed structure plans to assign the zoning of land up until such time as the Scheme Map is updated accordingly - thereby facilitating the subdivision and development of the land as soon as the structure plan is finalised. Whereas, at present there can be a lengthy period of time between when the structure plan is finalised and when proponents can apply to subdivide and develop their land for new land uses. A copy of the Scheme Amendment Report has been provided in Attachment 3 **under separate cover**.

Background

Structure Plan

In November 2007 the consultants TPG submitted a copy of an early draft structure plan for preliminary comment by City of Bunbury planning staff. The early draft versions of the structure plan were not formally lodged during this time as there were a number of tasks yet to be undertaken prior to preparation of the final plan design. These tasks included the investigation of flora and fauna, landform and geology, ground and surface water, cultural heritage, transportation and the quantification of infrastructure cost share arrangements.

The above matters for the most part relate to the requirements of other State Government departments such as the Department of Environment and Conservation (DEC), the Department of Water (DoW), Main Roads Western Australia (MRWA) and the Department of Indigenous Affairs (DIA).

On 7 December 2009 a meeting was held at the City of Bunbury with staff from the DoH and TPG consultants. The main outcomes were that the earlier draft version of the structure plan would be revised to be more consistent with the WAPC's Liveable Neighbourhoods operational policy, to have parks that were more consistent with the City's Integrated Open Space Strategy, to have a centrally located and accessible local activity centre, to have good internal and external linkages across the structure plan area, to have adequate traffic noise mitigation and landscaping measures along

Bussell Highway, and to provide appropriate safe access to Bussell Highway that will be acceptable to MRWA.

With the abovementioned studies being completed, a revised structure plan was submitted in June 2010 for comment. In a letter dated 16 June 2010, Development Services reiterated a number of outstanding matters - the main points being provision of an internal access link to the caravan park, medium density residential land being more appropriately located adjacent to the local centre and around public open space, and relocation of the existing Parade Road "Shopping Centre Zone" to enable better access from Parade Road and urban design interface with existing residential area.

Following the completion of the above tasks, the consultants TPG lodged a revised structure plan and accompanying supporting documentation with payment of fee on 8 July 2010. The July 2010 structure plan was considered to generally address the points requested in the 16 June letter, and it was therefore considered appropriate to progress the structure plan to the advertising stage. To facilitate the proposal, a proposed draft Tuart Brook Structure Plan document (text and maps) was prepared, consistent with the approach taken in Glen Iris and Moorlands, in order to ensure that there was a clear and robust statutory head of power to support the setting of conditions for subdivision and development approvals.

Scheme Amendment

Presently, the subject area of Tuart Brook is included in the "Residential Zone" with a density coding of "R15", as shown on the Scheme Map. The subject area is also included in a type of Special Control Area referred to as a "Development Investigation Policy Area", which requires the adoption and endorsement of a structure plan prior to the approval of any subdivision or development. However, the adoption and endorsement of a structure plan over this land that showed alternative land uses and residential density codings would be in conflict with the Scheme, and thus, would make the granting of applications of planning approval and development control problematic until such time as the Scheme was amended. This administrative burden is compounded if the subdivision of the structure plan area is done in stages over time, and is further aggravated where there are subsequent changes or departures from the original structure plan.

The requirement and procedure for making and amending structure plans is spread across clauses 5.8, 5.9.13 and 6.2 of TPS7. It is to be noted that although the basic structure planning procedure is provided in the Scheme, there is a lack of detail as to the manner in which each step of the process is carried out and the timing related to each step. There is also no direction as to the purpose of structure plans and the scope of minimum information required to be provided in the structure plan documentation. The existing text provisions also do not provide adequate guidance as to how the Local Government deals with variations or modifications to adopted structure plans, which inevitably arise over the life of a structure plan where it has been in place for some time prior to the commencement or completion of subdivision.

The WAPC's Planning Bulletin #37 - Draft Model Text Provisions for Structure Plans (February 2000) solves the above problems by giving more prescription as to how local governments are to deal with structure plans in a consistent manner across the State. Consequently, this scheme amendment has been based upon the Draft Model Text Provisions for Structure Plans, and effectively corrects this part of the Scheme

to a revised scheme standard. By allowing for structure plans to prescribe the zonings of land, and hence the relevant development controls, there will be greater certainty regarding the timeframes that apply to structure plans; and as such, should assist in reducing delays throughout the structure plan process by bridging the gap between the adoption of a structure plan and when the Scheme is updated.

Officer Comments

The Tuart Brook Structure Plan area is optimally located in relation to proximity to Bunbury's CBD, regional roads, TAFE and Edith Cowen University, Bunbury Regional Hospital and the Hay Park sporting and recreational complex. The structure plan area is nevertheless subject to development constraints principally in relation to:

- buffer issues with interfacing "Regional Open Space Reserve" (ROS) that bisects the structure plan area and incorporates "conservation category" and "resource enhancement" wetlands;
- drainage issues with a relatively high water table and need for stormwater detention of overland flows associated with flood events diverted from the Five Mile Brook Diversion Drain; and
- access issues with a limitation on road intersections with Bussell Highway.

These issues will be resolved through subsequent detailed subdivision plans and supporting technical reports and construction drawings that are prepared and submitted (in stages) in accordance with the final adopted Structure Plan.

Nevertheless, Tuart Brook's physical and environmental constraints have been considered in the design of the Structure Plan. The draft Structure Plan promotes urban design that encourages properties/dwellings to front onto ROS and local parks - providing a positive streetscape amenity and passive surveillance of the public realm. Also, the majority of medium density residential development has been designed to allow for vehicle access solely from rear laneways, which avoids garage dominated streetscapes, particularly for those lots opposite areas of public open space.

The proposed draft Structure Plan endeavours to adopt a design philosophy that promotes a high degree of permeability and connectivity to the existing road network whilst facilitating the provision of a range of appropriately sized lots within the R20, R30, R40 and R60 (Aged Person's Site) residential density codings. The draft Structure Plan also includes the requirement for the preparation of Detailed Area Plans for Council's adoption, which will provide further opportunity for the Local Government to guide the detailed subdivision design stages.

Analysis of Financial and Budget Implications

There are not considered to be any direct financial or budgetary implications for Council. Conditions of land subdivision include, but are not limited to, the following items that are to be dedicated / constructed at the subdivider's / developer's cost and to the specification and satisfaction of the relevant public authorities:

- all lots with frontage to a constructed and drained subdivisional road that is connected to the local road system;

- a contribute towards traffic calming measures, including intersection treatments connecting to main roads;
- a contribution towards roundabouts, road intersections, cycleways, dual use pathways and footpaths;
- land being filled, drained and connected to the City's stormwater drainage system; and
- all lots with connection to the reticulated potable water and sewerage systems.

Strategic Relevance

The proposed draft Structure Plan is considered to be consistent with the aims and goals of Council's 2007 – 2012 Strategic Plan and the objectives and recommendations of the City Vision Strategy (2007).

Community Consultation

To date it has been a stipulation of the City that DoH should consult affected landowners, along with other key stakeholders, directly during the structure plan's preparation. It is understood that this informal stakeholder consultation has been satisfactorily conducted prior to the submission of the latest draft version of the structure plan. Nevertheless, the proposed draft Structure Plan will require formal public advertising pursuant to existing clause 5.9.13 of the Scheme. An advertising period of 42 days is recommended to ensure adequate time for broader community and stakeholder consideration and comment.

Councillor/Officer Consultation

Up until the time of presenting this report to Council the formulation of the proposed draft Structure Plan has been co-ordinated internally by Council's Development Services department in consultation with the consultants TPG and DoH. Extensive consultation has also occurred with representatives of DEC, MRWA and DoW.

Economic, Social and Environmental Issues

Economic

The eventual structure planning and subdivision of the land can be assumed to have a positive net benefit to Bunbury's local and regional economy. It is also acknowledged that the City of Bunbury has limited areas of land remaining for residential development.

Social

Usher and College Grove, being outer suburbs of Bunbury, have traditionally experienced a shortage of readily accessible local facilities, especially shopping and schools that are within walkable distances to the majority of residents. The creation of two local activity centres and a primary school in Tuart Brook can expect to benefit the local community, and will supplement the social infrastructure of the local area generally.

Environmental

All of the following topics are covered in more detail in the relevant appendices of the draft Structure Plan Report found in Attachment 2 **under separate cover**.

Acid Sulphate Soils

A significant portion of the structure plan area consists of areas recognised as having a 'moderate to high' risk of Potential Acid Sulphate Soils (PASS). The portions of this land that are to be developed will require extensive remediation in terms of extracting areas identified with extensive amounts of Actual Acid Sulphate Soils (AASS) and replacing with appropriate fill to accommodate development. This will be a significant cost burden to the developer. Further investigation and assessment will be required at the subdivision design stage. For more information refer to Appendix C of the draft Structure Plan Report.

Hydrology

The structure plan area has issues in regard to flooding and inundation due to low lying land and shallow ground water levels, with limited ability to provide deep drainage basins. Due to historical land uses there is a high presence of nitrogen concentrations and silty soils at depth - limiting infiltration, use of aquifer storage and recovery of stormwater. For more information refer to Appendices C, D and E of the draft Structure Plan Report.

Fauna

Surveys conducted by the environmental consultancy firm ENV Australia in 2008 identified two listed species observed within the structure plan area - being the Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) and the Western Ringtail Possum (*Pseudocheirus occidentalis*). Carnaby's Black Cockatoos are protected as an "endangered" species under Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* and are also protected under the State's *Wildlife Conservation Act 1950* as "specially protected fauna". Western Ringtail Possums are protected as a "vulnerable" species under Commonwealth's Act and are also protected under the State's Act as "threatened". The recommendations of ENV included that:

- a 2.3 hectare area of bushland in the central north west of the structure plan area (shown as light green on the structure plan map) be conserved as public open space (POS);
- landscaping of POS west of the ROS include a 30% Peppermint Tree component; and
- a Western Ringtail Possum Management Plan be formulated to the satisfaction of the DEC.

The conservation and revegetation of the 2.3 hectares of bushland with the suggested tree species also has the dual benefit of assisting in the maintenance of foraging/habitat area for the Carnaby's Black Cockatoos. For more information refer to Appendices C and F of the draft Structure Plan Report.

Flora

Two “threatened ecological communities” were recognised as occurring within the structure plan area. These vegetation communities are mostly contained within the ROS; however, they also generally correspond with the areas identified as being “conservation category” and “resource enhanced” wetlands, which have both been identified for retention on the structure plan map. For more information refer to Appendices C and G of the draft Structure Plan Report.

Vegetation

The majority of the structure plan area is currently grazed by livestock. As a consequence, the balance of the area outside of the ROS is cleared paddocks with a few stands of remnant vegetation. The condition of the vegetation across the site varies from “good” to “degraded”. Some significant trees have been identified; however, these are proposed to be retained in the 2.3 hectares of bushland as POS as mentioned above. For more information refer to Appendices C and G of the draft Structure Plan Report.

Wetlands

A “conservation category” wetland occupies approximately 15 hectares of the northern portion of the structure plan area, most of which is contained within ROS. A “resource enhancement” wetland occupies approximately 4 hectares of the central portion of the structure plan area. Both of these wetlands have been identified for conservation on the structure plan map. For more information refer to Appendices C and H of the draft Structure Plan Report.

Legislative Compliance

The procedure for initiating and advertising structure plans is set out under clause 5.9.13 of TPS7. Once the City of Bunbury has advertised the proposed draft Structure Plan - it is to be forwarded on to the WAPC, along with Council’s recommendation and a copy of the submissions, for endorsement by the Commission prior to Council’s final adoption of the structure plan (refer to subclause 5.9.13.7 of the Scheme).

Conclusion

Structure planning of the Tuart Brook area has been undertaken by DoH over a period of almost 20 years. Earlier attempts to finalise structure plans for the area were unsuccessful due to the complexity of road access, environmental, drainage and infrastructural issues. This latest proposed draft Tuart Brook Structure Plan appears to adequately address the physical constraints of the site and provide a workable urban design, and hence, is now ready for public advertising in order to gain formal comment by stakeholders.

The Scheme Amendment provides for an effective and simple solution to the matter of reconciling the intended subdivision and development of land within an endorsed structure plan with the zoning of the land under the Scheme. It will provide increased efficiency and additional certainty in terms of clarifying the structure planning process and its statutory relationship to the Scheme - in order to permit more effective and timely development of land within areas such as Tuart Brook.

Options

Option 1

As per the Recommendation.

Option 2

That Council does not initiate the public advertising of the proposed draft Structure Plan and/or initiate the Scheme Amendment.

Outcome – Council Committee Meeting 7 September 2010

The Mayor asked if there were any members of the public that wished to speak on the item.

Mr Simon Luscombe from Department of Housing (DOH) and Mr Andrew Howe from TPG were there to answer any queries or questions that any Councillor had in regards to the issue.

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

That Council resolves as follows:

- 1. Pursuant to the *Planning and Development Act 2005* and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7, publicly advertise the proposed draft Tuart Brook Structure Plan for a period of 60 days.**
- 2. Following public advertising of the proposed draft Tuart Brook Structure Plan, the proposal and any public submissions lodged with the City of Bunbury during the advertising period, are to be returned to Council for its further consideration.**
- 3. Pursuant to the *Planning and Development Act 2005* initiate Scheme Amendment 44 to the City of Bunbury Town Planning Scheme No. 7.**
- 4. Refer Scheme Amendment 44 documentation to the Environmental Protection Authority for its assessment in accordance with the provisions of Section 81 of the *Planning and Development Act 2005*.**
- 5. Following the consent of the Western Australian Planning Commission and the Environmental Protection Authority, publicly advertise Scheme Amendment 44 for a period of 60 days in accordance with the *Town Planning Scheme Regulations 1969*.**

CARRIED
12 votes "for" / Nil votes "against"

11.3 Bunbury Parking Petition *(was listed as item 11.8 on the meeting agenda)*

File Ref:	A00472
Applicant/Proponent:	Public Sector Workers
Author:	Neil Dyer – Parking Coordinator
Executive:	Geoff Klem Executive Manager City Development
Attachments:	Confidential Report Under Separate Cover

Recommendation – CBD Parking Strategy PCG Committee

The CBD Parking Strategy Project Control Group recommends:-

1. That a response be prepared and sent to the Public Sector Union regarding the petition received outlining the rationale for the current parking arrangements in the CBD.
2. That a letter be sent to the Head Lessee regarding their obligations with regards to car parking.

Summary

A letter and petition has been received by Council from the Bunbury Public Sector Workers in regards to parking in Bunbury. The recommendation from Council on 3 August 2010 was that the petition be referred to the CBD Parking Strategy Project Control Group for consideration and report. A Confidential Report of the draft Minutes from this meeting is circulated to members **under separate cover**.

Background

In 2007 Council adopted the CBD Parking Strategy that entailed a number of changes to the parking arrangements in the Bunbury CBD. These changes commenced in December 2009 when CBD Council carparks were changed to either Visitor/Shoppper carparks; which offered 2 hours of free parking or all-day carparks which have a fixed daily charge. In June 2010, the next strategic change was the introduction of on-street parking machine.

The above changes were implemented in line with the CBD Parking Strategy to ensure the availability centrally located parking for visitors and shoppers to the CBD as well as providing fixed rate parking around the outer core of the CBD for patrons that require all day parking.

Since the introduction of these changes it has become apparent that although there is adequate all-day parking available around the CBD, all-day parking in areas of high demand are experiencing high levels of occupation while carparks in other areas still have parking available.

As a result of the high occupancy in some carparks there is a perceived shortage of parking in the CBD which would appear to have resulted in the submission of the petition from the Bunbury Public Sector Workers.

Outcome – Council Committee Meeting 27 July 2010

Moved Cr Major, seconded Cr Steck that the petition be received and be referred to the CBD Parking Strategy Project Control Group.

Outcome – Council Meeting 3 August 2010

The recommendation was moved Cr Jones, seconded Cr Leigh.

The motion as printed was put to the vote and was adopted to become the Council's recommendation on the matter.

“Council Decision 132/10

Pursuant to clause 9.4(d) of the City of Bunbury Standing Orders, the petition from the Bunbury Public Service Workers be accepted and be referred to the CBD Parking Strategy Project Control Group for consideration and report.

CARRIED

11 Votes “For” / Nil votes “Against”

Officer Comments

The changes made to the parking arrangements within the CBD have meant that any centrally located all-day parking is now at a premium. This is particularly apparent in the Wellington Street (Art Gallery) carpark.

Notwithstanding that the occupation levels in the Wellington Street carpark are high, it should be noted that alternative all day parking is available only 350 metres to the west and about 600 metres to the east of this carpark.

Another factor that appears to have a direct impact on the demand for parking in the Wellington Street carpark is its proximity to the Centrelink Call Centre.

The Centrelink call centre employs about 250 staff of which about 150 are present during the week between 8.00am and 5.00pm. Although there is parking provided under the building (about 50 bays), it would appear that this parking is not utilised well during the peak periods.

To ensure compliance with the Development Approval and any Lease Agreements and to ensure the parking is used to its best potential, the City is currently preparing communication with the Head Lessee of this building.

Options

Option 1

As per the recommendation in this report

Option 2

That Council does not support the recommendation.

Outcome – Council Committee Meeting 7 September 2010

Cr Steele disclosed an impartiality interest in this item (see section 7) as she is an employee of Centrelink. She will stay, participate in discussion and vote on the matter.

The Mayor asked if there were any members of the public that wished to speak to the item.

Ms Mescal Yates representing the Community & Public Sector Union (CPSU), 445 Hay Street Perth addressed the Committee. During her address she made the following points:

- The petition was not just relating to Centrelink
- There has always been a problem with parking and it's not just an issue that has arisen out of the installation of parking meters.
- The union has surveyed about 500 members in regards to the parking issues.
- Possible to have an Annual parking permit to purchase as other Local Governments do so
- Availability of all day parking is lacking.
- Cost of parking for the part-time employees
- Lighting of a pathway was promised but has not come to fruition

The Mayor assured Ms Yates that the CBD Parking Strategy Project Control Group is looking into the issues raised by not just the CPSU but by other members of the public. The possibility of an annual or monthly parking permit is being considered along with the possibility of making shopper-carparks longer stay. The issue of the lighting of the pathway is not considered as a priority at this stage.

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

It was requested that the mover and seconder agree to add the word "comprehensive" before the word "response" in point 1 of the recommendation. This amendment was agreed to.

The Mayor put the motion (as amended) to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

The CBD Parking Strategy Project Control Group recommends:-

- 1. That a comprehensive response be prepared and sent to the Public Sector Union regarding the petition received outlining the rationale for the current parking arrangements in the CBD.**
- 2. That a letter be sent to the Head Lessee regarding their obligations with regards to car parking.**

CARRIED
12 votes "for" / Nil votes "against"

**11.4 Proposed Oversized Outbuilding – Lot 10 (on Deposited Plan 62359)
Moorland Avenue, Glen Iris** *(was listed as item 11.4 on the meeting agenda)*

File Ref:	P06630
Applicant/Proponent:	Shempton Patrick Mullane
Author:	Kevin Townroe, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development
Attachments:	Appendix 2, 3 & 4

Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the Planning and Development Act 2005 (as amended), hereby resolves to grant planning approval to Shempton Patrick Mullane for the construction of a residential outbuilding at Lot 10 (No.37) Moorland Avenue, Bunbury, subject to conditions as determined by the Senior Manager of Development Services.

Summary

The subject property is 9148m² in overall area containing one (1) dwelling, sheds and a small nursery which is a non-conforming use under Town Planning Scheme No.7. A 450m² shed is proposed for use with the residential property.

The original application proposal was considered to have significant adverse impact on the locality. However, as a result of mediation, the appellant has proposed a reduction in overall height and the addition of landscaping screening to reduce any adverse visual impact from a streetscape perspective and as such the proposal is considered by Development Services to be acceptable.

It should be noted that Council's determination on the matter is currently scheduled for further mediation before the State Administrative Tribunal on the 23 September 2010.

Site location plan **attached** at Appendix 2
Site plan / Landscaping plan **attached** at Appendix 3
Structural plan **attached** at Appendix 4

Background

The original proposal for a 450m² outbuilding on this property was refused which is now subject to an appeal with the State Administrative Tribunal (ref: DR 188 2010). As a result of mediation, the height of the shed has been reduced; evergreen tree screening is to be planted to reduce any adverse visual impacts from the street. Importantly, the proposal has been advertised to which no adverse comments or objections have been received.

Officer Comments

The proposal in terms of the overall size (450m²) is not in accordance with the acceptable development criteria of the Residential Design Codes 2008 and as such would require a Codes variation approval. The proposal is not strictly in accordance with Local Planning Policy 'Minor Structures' and therefore requires Council approval.

As a result of SAT mediation, the appellant has reduced the overall height and is proposing to plant evergreen trees to reduce visual impact from a Streetscape perspective. Notwithstanding that, this particular property is relatively unique to Bunbury in that the lot is in excess of 9,000m² in area and the outbuildings would not cover any more than 10% of the lot area.

Analysis of Financial and Budget Implications

There are no known financial implications in relation to the City's interests.

Community Consultation

As part of the mediation process, public advertising has been carried out and no adverse comments have been received as a result of this.

Council Policy Compliance

Local Planning Policy '*Minor Structures (including outbuildings)*' is designed to guide the development of additional structures on residential property within an urban environment. The subject property is located on the outer eastern fringe of the residential area and is situated in semi-rural location. Given the size of the residential land holding and location it is considered acceptable in this instance to allow a variation to the Policy requirements.

Delegation of Authority

The Chief Executive Officer does not have delegated Authority of the Council to grant approval for the recommendation and therefore the proposal requires consideration by Council.

Options

Option 1

As per the recommendation in this report

Option 2

Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the Planning and Development Act 2005 (as amended), hereby resolves to refuse to grant planning approval to Shempton Patrick Mullane for the construction of a residential outbuilding at Lot 10 No.37 Moorland Avenue, Bunbury, for reasons to be determined by council as part of its deliberations on the matter

Outcome – Council Committee Meeting 7 September 2010

The Mayor asked if there were any members of the public that wished to speak to the item.

Mr David Jones, Insitu Planning, addressed the Committee on behalf of the owners of the property. He stated that the proposed building was a shed that was being built behind the existing shed already on the property. There is going to be extensive landscape screening in order to block the shed from the Australind Bypass.

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the Planning and Development Act 2005 (as amended), hereby resolves to grant planning approval to Shempton Patrick Mullane for the construction of a residential outbuilding at Lot 10 (No.37) Moorland Avenue, Bunbury, subject to conditions as determined by the Senior Manager of Development Services.

CARRIED
12 votes "for" / Nil votes "against"

11.5 Offer to Purchase Lot 66 Ocean Drive, Bunbury *(was listed as item 11.11 on the meeting agenda)*

File Ref:	A00420
Applicant/Proponent:	Internal Report
Author:	Ron Boardley, Property and Rating Coordinator Paul Davies, Planning Consultant
Executive:	Ken Weary, Executive Manager Corporate Services
Attachments:	Appendix 11, 12 & 13

Recommendation

- (A) Council notes the comments outlined in the submissions received objecting to the proposed sale of Lot 66 Ocean Drive, Bunbury, however, it is also noted that the subject land was recently rezoned to a "Special Use Zone" under the City of Bunbury Town Planning Scheme No. 7 to accommodate a variety of possible uses including short stay accommodation, permanent residential and commercial/recreational facilities and the proposed development of a hotel on the site is consistent with the intent of the zoning.
- (B) The City of Bunbury accepts the offer from Citron Property Pty Ltd of \$2,660,000 (inclusive of GST) for the purchase of Lot 66 Ocean Drive, Bunbury, subject to:
- 1 a) The offer is conditional upon a Development Approval for the construction of a hotel being approved by the City of Bunbury no later than 180 days from acceptance.
 - b) The City does not by virtue of selling the property subject to the conditions described in 1(a) in any way limit its discretionary powers as the responsible authority for its Town Planning Scheme.
 - 2 a) The City will contribute the sum of \$15,000 towards the Buyers cost of having the power lines on the Scott Street frontage of the property installed underground. Such reimbursement to be made on completion of the works.
 - 3 The Certificate of Title forms part of the contract for sale.
 - 4 The purchaser acknowledges being made aware of the planning issues with the property and acknowledges having received a copy of the Planning Information package which forms part of the contract for sale.
 - 5 a) The contract is conditional upon the Buyer undertaking due diligence investigations and enquiries about the property and all related matters and being satisfied with the results of those enquiries including but not limited to a Geotec survey or investigation.
 - b) All due diligence enquires and investigations are to be made at the expense of the Buyer. If the Buyer does not notify the Seller (Council) within 30 days of acceptance of the contract

that it is not satisfied with the due diligence enquires, then this condition is deemed to be fulfilled.

- c) If the buyer does notify the Seller (Council) within 30 days of acceptance that the Buyer is not satisfied with the due diligence enquiries, then the contract shall terminate and all monies (the deposit paid) shall be repaid to the Buyer.

Summary

This report relates to the submissions received following the advertising of the City's intention to sell Lot 66 Ocean Drive, Bunbury to Citron Property Pty Ltd.

Background

At the meeting held on 3 August 2010, Council resolved, in accordance with Section 3.58 of the Local Government Act 1995, to advertise its intention to sell Lot 66 Ocean Drive, Bunbury to Citron Property Pty Ltd for \$2,660,000 (inclusive of GST).

The proposal was advertised in the South Western Times on Thursday 12 August 2010 and on the City's Web Site. Submissions relating to the proposed disposition closed at 4.00 pm on Friday 27 August 2010. A copy of the newspaper advertisement is **attached** at Appendix 11.

Seven submissions have been received objecting to the proposed sale of Lot 66 and the details are included in the "Schedule of Public Submissions" which is **attached** at Appendix 12. A plan showing the location of Lot 66 in relation to the properties owned/occupied by the persons who forwarded submissions is also **attached** at Appendix 13.

Response to Submissions:

Planning Issues

Comments outlined in the submissions are noted, however, the subject land was recently rezoned to a Special Use Zone under the City of Bunbury Town Planning Scheme No 7 to accommodate a variety of possible uses including short stay accommodation, permanent residential and commercial/recreational facilities.

The scheme amendment was advertised for public comment and submissions were considered. The development of a hotel on the site is consistent with the intent of the zoning and the City Vision Strategy as commercial/tourism development will benefit the City and its region both socially and economically.

The subject site is considered ideally located for tourist accommodation development in view of its proximity to the Bunbury Back Beach and with existing tourist accommodation/development sites adjacent to the north and along Ocean Drive.

The proposed hotel development is consistent with existing tourist development sites along the Back Beach area. The development conditions outlined in Town Planning Scheme No 7 are aimed to ensure compatibility of future development of the subject land with existing and future development in the area.

The scheme provisions require preparation of a Detailed Area Plan for the site prior to any Development being approved. The Detailed Area Plan requires the proponent to address issues including land use allocation, ocean views, ingress and egress, pedestrian access and movement, building height and scale; landscaping and car parking and view shed analysis.

The development requirements include a height limit of 9 metres (comprising two stories with a loft) at the Upper Esplanade level with an overall maximum building height of 25 metres Australian Height Datum (AHD).

The 9 metre height limit adjacent to Upper Esplanade is consistent with the general 9 metre height requirement for Residential Development under Town Planning Scheme No 7 and the Western Australian Planning Commission, Residential Design Codes. The overall height limit of 25 metres AHD will generally accommodate up to four stories and a loft at the Ocean Drive frontage of the property.

Environmental Concerns

With regard to Environmental concerns and in particular possible sea level rise, the Scheme Amendment to rezone the subject land has been approved by the Department of Conservation and Environment and the Western Australian Planning Commission. On this basis, the proposal is considered suitable.

Business Plan

The Local Government Act requires the business plan to include details of the developments expected effect on other persons providing facilities and services in the district.

The Business Plan identifies amenities such as shops, schools, hospital and other medical facilities that are easily accessible and are within a reasonable distance by motor vehicle.

The plan also anticipates the development of the site will benefit the City and its region socially and economically. The plan identifies the Lot as being 579 metres from the Central Business District and also located within close proximity to other places of recreational and tourism interest including:

- Ocean Beach and regional parkland (located across Ocean Drive to the west).
- Bunbury Surf Life Saving Club (approximately 150 metres to the north or north-west).
- The Ex-Tensions Restaurant (approximately 290 metres to the north or north-west).
- Victoria Street which is the main street running through the Bunbury CBD (approximately 640 metres to the west or north-west).
 - Hungry Hollow Restaurant (approximately 822 metres to the south).
 - Leschenault Inlet (approximately 1 kilometre to the west-north west).
- The Marlston Waterfront Development comprising cafes, a nightclub and speciality shops (approximately 1.4 kilometres to the northwest).

The plan outlines that Tourism development on the site is expected to compliment the range of existing tourist development sites and services located in the Back Beach precinct and improve the City's overall profile as a tourist destination.

The land is zoned 'Special Use No. 50 (SU50)' for the development of uses including Grouped Dwelling; Hotel; Motel; Restaurant; Shops and Short-stay Accommodation, and land to both the North and South of the site is zoned for Hotel, Tavern and Restaurant and Motel.

Officer Comments

It is considered that the City should proceed with the proposed sale of Lot 66 Ocean Drive, Bunbury as the subject land was recently rezoned to a Special Use Zone under the City of Bunbury Town Planning Scheme No 7 to accommodate a variety of possible uses including short stay accommodation, permanent residential and commercial/recreational facilities.

The development of a hotel on the site is consistent with the intent of the zoning and the City Vision Strategy as commercial/tourism development will benefit the City and its region both socially and economically.

Analysis of Financial and Budget Implications

Accepting the offer as outlined above would result in Council receiving a Nett sale price of \$2,645,000 (inclusive of GST), which is \$5,000 above the sale price previously determined by Council.

The Budget for 2010/11 provides for income from the sale of Lot 66 of \$2,404,545 (excluding GST) and for expenditure of these funds on major infrastructure projects identified in the Five Year Financial Plan.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Per the recommendation listed in this report, with amendments suggested by council members.

Option 3

That due to the submissions received objecting to the sale of Lot 66 Ocean Drive, the City of Bunbury rejects the offer from Citron Property Pty Ltd of \$2,660,000 (inclusive of GST) for the purchase of Lot 66 Ocean Drive, Bunbury and the property be withdrawn from sale.

Outcome – Council Committee Meeting 7 September 2010

Cr Major disclosed an impartial interest in this item (see section 7) and left the chambers at 6.54pm. He did not participate in the discussion and did not vote on the matter.

The Mayor asked if there were any members of the public that wished to speak on the item.

Mr Robyn Gibbs of 29b Haig Crescent, Bunbury addressed the Committee with his objections to the sale of the subject land. He expressed concern over the issue of rising sea levels and how it would impact on the setback allowed for the block. He believed that the proximity of the ocean to block and the impact of climate change would ultimately result in the possibility of the Council being faced with litigation from the developer. He was concerned with the fact that if a hotel was developed on the site it would be too close in proximity to the High School. He tabled a report from the Intergovernmental Panel on Climate Change (IPCC) '*Climate Change 2007*' and asked that the Councillors get a copy.

The Mayor assured Mr Gibbs that the Council was well aware of the issue of Climate Change and has been active in that area. The Mayor attends a number of conferences on Climate Change one being as recent as February this year. The subject land is a relatively elevated piece of land. The Mayor confirmed with the (acting) Executive Manager Development Services that all current planning requirements and legislation has been met and there is no anticipated change to occur in the near future.

Councillor Steck arrived at the meeting during this time (7.45pm) and voted on the matter.

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

- (A) Council notes the comments outlined in the submissions received objecting to the proposed sale of Lot 66 Ocean Drive, Bunbury, however, it is also noted that the subject land was recently rezoned to a "Special Use Zone" under the City of Bunbury Town Planning Scheme No. 7 to accommodate a variety of possible uses including short stay accommodation, permanent residential and commercial/recreational facilities and the proposed development of a hotel on the site is consistent with the intent of the zoning.**
- (B) The City of Bunbury accepts the offer from Citron Property Pty Ltd of \$2,660,000 (inclusive of GST) for the purchase of Lot 66 Ocean Drive, Bunbury, subject to :**
- 1 a) The offer is conditional upon a Development Approval for the construction of a hotel being approved by the City of Bunbury no later than 180 days from acceptance.**

- b) The City does not by virtue of selling the property subject to the conditions described in 1(a) in any way limit its discretionary powers as the responsible authority for its Town Planning Scheme.
- 2 a) The City will contribute the sum of \$15,000 towards the Buyers cost of having the power lines on the Scott Street frontage of the property installed underground. Such reimbursement to be made on completion of the works.
- 3 The Certificate of Title forms part of the contract for sale.
- 4 The purchaser acknowledges being made aware of the planning issues with the property and acknowledges having received a copy of the Planning Information package which forms part of the contract for sale.
- 5 a) The contract is conditional upon the Buyer undertaking due diligence investigations and enquiries about the property and all related matters and being satisfied with the results of those enquiries including but not limited to a Geotec survey or investigation.
b) All due diligence enquires and investigations are to be made at the expense of the Buyer. If the Buyer does not notify the Seller (Council) within 30 days of acceptance of the contract that it is not satisfied with the due diligence enquires, then this condition is deemed to be fulfilled.
c) If the buyer does notify the Seller (Council) within 30 days of acceptance that the Buyer is not satisfied with the due diligence enquiries, then the contract shall terminate and all monies (the deposit paid) shall be repaid to the Buyer.

CARRIED
11 votes "for" / 1 vote "against"

11.6 Youth Advisory Council Terms of Reference *(was listed as item 11.1 on the meeting agenda)*

File Ref:	A00773-13
Applicant/Proponent:	Andrew Rigg, Youth Development Officer
Author:	Andrew Rigg, Youth Development Officer
Executive:	Domenic Marzano, Executive Manager City Life
Attachments:	Nil

Recommendation

That Council accept the revised terms of reference for the Youth Advisory Council

Summary

The terms of reference for the Youth Advisory Council have been revised to reflect changes to the structure of the committee, including the implementation of a "Formal Youth Advisory Council" and "Informal Youth Advisory Council".

Background

The City of Bunbury Youth Advisory Council has been an active committee of Council since 1997. It currently has a membership of approximately 20 young people between the ages of 12 and 25 and is involved in advising Council on issues important to youth, organising and volunteering at youth events, and sitting on youth development project reference groups.

Officer Comments

A planning day was held in June 2009 with current Youth Advisory Council (YAC) members during which, a restructure of the committee was discussed. Discussion centred on several different options for the operation of the YAC. The model unanimously agreed upon by the membership is that reflected in the proposed revision to the committee terms of reference. Essentially it is a two tiered model consisting of formal and informal committees.

- Formal YAC: The Formal Youth Advisory Council committee is comprised of youth members nominated and elected by the general membership of YAC and Councillors appointed by the City of Bunbury Council. The focus of the Formal YAC is decision making, planning and provides an opportunity for skills development and experience around formal meetings, decision making, business/budgeting and program and project development.
- Informal YAC: The Informal Youth Advisory Council committee is comprised of a general youth membership and exists to support the formal YAC as a base for consultation around issues relevant to youth, leadership development and as a volunteer resource base for event organisation and delivery. Formal YAC members are given the opportunity to participate in Youth Development Team meetings and are encouraged to take an active role in the ongoing development of City of Bunbury youth projects and programs.

Members of the Formal YAC are elected for a 12 month term. Offices include those of the Youth Mayor and Youth Deputy Mayor, promotions officer, and membership liaison officer. Formal YAC members currently sit on the project reference groups for the Unleashed holiday program, Take 2: Youth Media Project, BANDiT Live Music Project and are actively involved in consulting on the on going development of existing and new projects and programs.

Analysis of Financial and Budget Implications

There are no budgetary considerations associated with this item.

Options

Option 1

The Council accept the revised terms of reference.

Option 2

The Council refer the terms of reference back to the Youth Development Officer for further amendments.

Option 3

The Council not accept the amended terms of reference.

Outcome – Council Committee Meeting 7 September 2010

At this point (7:54pm) in proceedings Cr Major returned to the chambers, participated and voted in the remainder of the meeting.

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

That Council accept the revised terms of reference for the Youth Advisory Council

CARRIED
13 votes "for" / Nil votes "against"

11.7 Bunbury Airport Advisory Committee – Resignation of Councillor Harrop
(was listed as item 11.2 on the meeting agenda)

File Ref:	F00080-24
Applicant/Proponent:	Internal Report
Author:	Nigel Archibald – Airport Reporting Officer
Executive:	Michael Scott – Executive Manager City Services
Attachments:	Nil

Recommendation

Bunbury City Council appoints Councillor _____ to the Bunbury Airport Advisory Committee to fill the vacancy created by the resignation of Councillor Juliet Harrop.

Summary

Councillor Harrop has tendered her resignation from the committee and a replacement Council representative is now sought.

Background

Councillor Juliet Harrop has tendered her resignation from the Bunbury Airport Advisory Committee effective immediately.

A replacement Councillor representative is now sought to fill the vacancy created by this resignation.

The balance of Councillor Harrop's current term on this committee will expire on Election Day, 15 October 2011.

Officer Comments

The Bunbury Airport Advisory Committee meets quarterly. The meetings are held on Thursdays commencing at 5:15pm.

Analysis of Financial and Budget Implications

There will be no financial or budgetary impact on Council resulting from this matter.

Councillor/Officer Consultation

The Bunbury Airport Advisory Committee believes it is preferable to have three (3) councillors on the committee. The councillors currently on the committee are Cr Punch and Cr Major.

Options

Option 1

As per the recommendation in this report.

Outcome – Council Committee Meeting 7 September 2010

The recommendation as printed was moved Cr Jones, seconded Cr Slater.

Cr Slater nominated Cr Steck as the Council representative. Cr Steck agreed. There were no other nominations.

The Mayor put the motion (as amended) to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Bunbury City Council appoints Councillor Michelle Steck to the Bunbury Airport Advisory Committee to fill the vacancy created by the resignation of Councillor Juliet Harrop.

CARRIED
12 votes "for" / 1 vote "against"

11.8 Proposed Single House – Lot 240 (No. 3) Lumper Street, Bunbury (was listed as item 11.5 on the meeting agenda)

File Ref:	P12275
Applicant/Proponent:	The Land Division
Author:	Ann-Kristin Jank, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development
Attachments:	Appendix 5 & 6

Recommendation

Council under and by virtue of the power conferred upon it in that behalf pursuant to the Planning and Development Act 2005 hereby resolves to grant planning approval to The Land Division (on behalf of Mrs C Cates) for the proposed single house on lot 240 (No. 3) Lumper Street subject to standard conditions as determined by the Senior Manager Development Services.

Summary

A planning application has been received for a single house on lot 240 (No. 3) Lumper Street. The subject lot is located within the Marlston Hill (Stage 3) Design Guidelines area. A location plan is **attached** at Appendix 5

The applicant has requested consideration of an alternative design (in regard to roofscape) by Council in accordance with clause 1.4 of the Marlston Hill (Stage3) Design Guidelines (MHDG). Council has previously supported variations to the MHDG in terms of roofscape. The applicant has proposed a 12° pitched roof whereby the MHDG require a 25° pitched roof.

It is considered that the proposal meets the intent and objectives of the MHDG and it is therefore recommended to support the proposal.

Background

The proposal (plans **attached** at Appendix 6) does not comply with the MHDG in relation to the roofscape. In accordance with section 8.0 of the MHDG, a pitched roof with a minimum pitch of 25° is required. However, Council does have the ability to consider variations under clause 1.4 of the MHDG.

The applicant proposes a skillion roof with a pitch of 12° as well as a flat roof for a portion of the building and the following justification has been provided:

“Much time has been spent in the formulation of the plans with the intent being to create a residence which is compatible and harmonious with the site and locality. A range of materials are proposed such as extensive glass, rendered brickwork with selected paint finish and feature stone balcony support walls. When properly combined these elements assist to form a balanced built form adding aesthetically to and improving the amenity of the streetscape.”

“The proposed roof pitch will provide a variety to the roof form in the estate and will also enhance the amenity of the locality as a result of the existing dwelling being

demolished. In addition, the skillion roof assists with reducing building bulk. The design guidelines state that the roofscapes ultimately in combination, form the profile of the hill, as seen from Koombana bay and to a lesser extent the CBD. As the site is situated low on the hill and is 'tucked away' in a cul-de-sac, the proposed roof will not detrimentally impact the profile of the hill. There are a number of houses within the Marlston Hill estate which although adhering to the required 25° pitch, detract from the overall appearance of the precinct and have resulted in aesthetically poor building solutions. We believe the City should show flexibility when assessing new buildings, on an individual basis, that add aesthetically to the area. The policy framework should be varied in this instance to provide for sensitive and low impact architectural flair and expression."

Officer Comments

Given that the proposal is to develop a dwelling that has a contemporary design and does not produce a structure with excessive building bulk, the proposed variation to the roof pitch requirements of the MHDG has merit.

Development Services considers that the proposed development is acceptable. The only issue of substance relates to the proposal of a 12° pitched roof instead of a 25° pitched roof as required. However, on balance it is considered that the proposal does meet the intent and objectives of the MHDG and is acceptable based on prior Council determinations.

Furthermore, Development Services is currently reviewing the MHDG in relation to contemporary design solutions and it is considered highly likely that provisions relating to roof pitch will be reviewed requiring pitched rooves in general without the specification of a certain degree.

Analysis of Financial and Budget Implications

Not applicable.

Council Policy Compliance

The proposal requires variation of provisions of the City's Local Planning Policy – Marlston Hill (Stage 3) Design Guidelines in terms of Section 8.0 Roofscape.

Legislative Compliance

Legislative requirements relating to the Local Government Act 2005 or any other Act, Local Law or Regulations have been complied with in the processes leading up to the finalisation of this item.

Delegation of Authority

The Chief Executive Officer does not have delegated authority in this matter.

Relevant Precedents

Council has previously supported variations to the City's Local Planning Policy – Marlston Hill (Stage 3) Design Guidelines in terms of roofscape.

Refer decision no. 224/99 on 27 April 1999 and decision no. 7/02 on 5 February 2002.

Options

Option 1

As per the recommendation.

Option 2

Council does not support the recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the Planning and Development Act 2005 hereby resolves to refuse the proposed single house on lot 240 (No. 3) Lumper Street for the following reasons:

Note: Reasons to be determined by Council as part of its deliberations on the matter

Outcome – Council Committee Meeting 7 September 2010

Cr Steele disclosed an impartiality interest in this item as she is friends with the owner (see section 7). She will stay, participate in discussion and vote on the matter.

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Council under and by virtue of the power conferred upon it in that behalf pursuant to the Planning and Development Act 2005 hereby resolves to grant planning approval to The Land Division (on behalf of Mrs C Cates) for the proposed single house on lot 240 (No. 3) Lumper Street subject to standard conditions as determined by the Senior Manager Development Services.

CARRIED
13 votes "for" / Nil votes "against"

11.9 Proposed Family Day Care, 33 Naturaliste Avenue Withers *(was listed as item 11.6 on the meeting agenda)*

File Ref:	P13759
Applicant/Proponent:	Pamela Furey
Author:	Kanella Hope, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development
Attachments:	Appendix 7, 8 & 9

Recommendation

Council resolve under and by virtue of the power conferred upon it by the Planning and Development Act 2005 and the City of Bunbury Town Planning Scheme No.7 to approve the Planning application from Ms. P Furey for a Family Day Care at 33 Naturaliste Avenue Withers subject to standard conditions as determined by the Development Services department and including the following non standard conditions:

1. No more than seven (7) children (including the operators own children) may be cared for within the family day care business at any one time.
2. The hours of operation are limited to 7.30am to 5.30pm Monday to Friday excluding public holidays.

Summary

A Planning Application has been received from Pamela Furey for a Family Day Care centre at her home at 33 Naturaliste Avenue Withers. A location plan is **attached** at Appendix 7.

Background

The subject land is located within the Residential Zone of the City of Bunbury Town Planning Scheme No.7. Family Day Care is an "A" use in this zone.

Being an "A" use, a Planning Approval is necessary and public notice is required to be given. Notices of the proposal were sent to neighbours and public notices appeared in the local papers.

Four submissions have been received from adjoining and opposite owners / occupiers. The main issue is potential noise. Other issues raised include a perception that this type of use is not suited to or wanted in this quiet residential area, parking impacts, reduced property values and disappointment (by the submitters) to not having been notified personally. These matters are discussed in more detail later in this report.

Proposal

The applicant has advised that she will be registered as a Family Day Care provider with the YMCA Family Resource centre in Busselton. A plan of the home has been supplied (see **attached** at Appendix 8). The YMCA registration imposes standard

government family day care provider obligations upon the applicant, including a restriction to a maximum of seven children at any one time, program requirements for the children during the course of the day, as well regular safety and operational expectations and inspections for the areas of the home and backyard that will be used.

It is noted that these regulations apply different ratios depending on the age of the children being cared for, however a maximum of seven children at any one time always applies, including the applicants own children. As Ms Furey has three of her own children (one under four years of age and two school age), this will further limit the maximum number of children at her home at any one time to four (4).

The applicant advises that her proposed hours of operation will be 7.30am to 5.30pm Monday to Friday. Parents dropping off / picking up children are able to park within the double width driveway. Ms Furey has explained that although it is unlikely that she will have four (4) additional children at her home every week day from 7.30am through to 5.30pm, she is required to make this spread of hours available in order to achieve Commonwealth Child Care Benefit recognition, which enables parents to claim rebates on the child care she provides.

Officer Comments

The proposed family day care use is considered to be suitable to this residential location. The family day care use is a small business that complements the family home use that already occupies this site. The additional four (4) children to the owners own is not a significant increase and given the regulations imposed through the YMCA and government, can be managed to limit impacts beyond that of a family living in this home.

Family day care provides a valuable service to the overall community, providing alternative child care options to local families.

Conditions are proposed to limit the hours of operation and number of children as per the application. Additionally, a condition is proposed which enables the use to be reviewed annually, commencing December 2011.

Analysis of Financial and Budget Implications

No implications

Community Consultation

Four submissions have been received. This includes from an opposite and an adjoining landowner in Naturaliste Avenue, and a submission each from both the owner and the occupier of the adjoining property to the rear. Copies of the submissions are as indicated on the schedule of submissions (**attached** at Appendix 9).

The main issue raised by submitters relates to noise. The submitters advise that they are shift workers so they often sleep during the day time, hence noise from the family day care may disrupt their sleep.

Although there may be noise from the children in the proposed family day care facility, indeed from any family home, in this instance, noise from the additional children will be limited to during typical weekday working hours only and does not include during the night or at weekends.

Given program obligations by the YMCA and government, the children will not be playing outside all day however, they will do at times. Being under school age, the children will also spend quiet / rest times indoors, as well as both indoor and outdoor activities, not all of which will be continually noise generating. Additionally, Ms Furey advises that there will be regular activities and playgroups they will attend for periods of time away from her home.

Noise from children, including children playing outdoors is typical of a residential area. The number of children a family can have is not restricted, only once you care formally in a family day care business arrangement for children that are not your own. The issue of noise is not considered to be of sufficient weight to refuse this proposal.

In relation to the other issues raised by the submitters, there is considered to be ample room within the site and the street network to accommodate vehicles dropping off and picking up children. It is unlikely that all four (4) children will be dropped off / picked up at the same time, or that each child will be from a different family / vehicle. It is noted that Council's Engineers have no concerns with the proposal.

The issue of property valuation being affected is a subjective issue and no evidence has been supplied to demonstrate this to be true. It is noted that it has been commonly held in planning law that property value is not a valid planning consideration. In relation to neighbours not being notified personally by the applicant of the proposal, this is also not considered to be a valid planning consideration.

Legislative Compliance

In addition to being within the Residential Zone, Council's Local Planning Policy "Family Day Care Premises" must also be given regard. This policy sets out the information and notice requirements for an application, which are considered to have been satisfied.

Relevant Precedents

There are no relevant precedents in this regard. It is acknowledged however that Council approved a similar application for a family day care centre at 16 Foreman Drive at the 2 March 2010 Council meeting. Planning Approval was granted subject to conditions including annual review, specified hours of operation and a maximum of seven (7) children.

Options

Option 1

As per the recommendation

Option 2

Council does not support the recommendation.

Council resolve under and by virtue of the power conferred upon it by the Planning and Development Act 2005 and the City of Bunbury Town Planning Scheme No.7 to refuse the Planning application from Ms. P Furey for a Family Day Care at 33 Naturaliste Avenue Withers for the following reasons:

Note: Reasons to be determined by Council as part of its deliberations on the matter.

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Council resolve under and by virtue of the power conferred upon it by the Planning and Development Act 2005 and the City of Bunbury Town Planning Scheme No.7 to approve the Planning application from Ms. P Furey for a Family Day Care at 33 Naturaliste Avenue Withers subject to standard conditions as determined by the Development Services department and including the following non standard conditions:

- 1. No more than seven (7) children (including the operators own children) may be cared for within the family day care business at any one time.**
- 2. The hours of operation are limited to 7.30am to 5.30pm Monday to Friday excluding public holidays.**

CARRIED
13 votes "for" / Nil votes "against"

11.10 Bunbury Airport Site No. 22 – Deed of Assignment of Lease from Mr C Mulligan to Mr C Dinis & Mr R Bunny *(was listed as item 11.9 on the meeting agenda)*

File Ref:	F00156 Lease #114
Applicant/Proponent:	Colin Mulligan
Author:	David Whitfield, Property Officer
Executive:	Ken Weary, Executive Manager Corporate Services
Attachments:	Appendix 10

Recommendation

1. Council agrees to grant the Assignment of Lease over Bunbury Airport Site No. 22, Reserve 27686, Lot 501 South Western Highway, Bunbury from Mr Colin Mulligan to Mr Colin Dinis and Roger Bunny for the unexpired term of the lease (to 30 June 2011) in accordance with the terms and conditions specified in the report.
2. Public notice of the intention to Assign the Lease will be provided in accordance with Section 3.58 (3) and (4) of the Local Government Act 1995, through notices displayed on Public Notice Boards at the City's Administration centre, at both the City's libraries, published in a local newspaper and on the City's website.
3. Subject to no objecting submissions being received the Deed of Assignment of Lease be finalised.
4. Obtain Minister for Lands approval.
5. The Assignee to be responsible for the full costs of documentation, registration and statutory advertising associated with the assignment of the lease.

Summary

Mr Colin Mulligan requests Council consideration to assign the lease he holds over Bunbury Airport Site No.22, South Western Highway, Bunbury to Mr Colin Dinis and Mr Roger Bunny. A copy of the site plan is **attached** at Appendix 10.

Background

The Bunbury Airport is located on Reserve 27686, (Lot 501) South Western Highway Bunbury. The land is held by the City of Bunbury under Management Order Crown Land Record 3040/63 for the purpose of an "Aerodrome" with the power to lease for a term of up to twenty one (21) years.

Pursuant to Section 18 of the *Land Administration Act 1997*, the Department for Regional Development and Lands has provided the City with its "in principal" approval to the assignment of the lease.

The proposal to assign the lease has been referred to the Bunbury Airport Advisory Committee which has advised they have no objection to the proposed assignment.

Subject to Councils endorsement of the assignment the proposed assignment must be advertised pursuant to Section 3.58 of the *Local Government Act 1995* and requires a public submission period of fourteen (14) days.

Final approval will be then sort from the Minister for Lands (Department for Regional Development and Lands) with the lodgement of the Lease assignment document.

Lease Details:

Current Lease Commenced:	1 July 2001
Current Term:	Five (5) years + Five (5) year option.
Expiry Date:	30 June 2011
Annual Rental:	\$347.25 per annum + GST
Administration Fee:	\$38.53 per annum + GST
Rent Review	The Annual Lease Rental and Administration Fee are adjusted annually in accordance with Council's Commercial and Industrial Municipal Rate.
Permitted Use:	Storage of Aircraft
	78.5m ²
Outgoings:	Responsibility of Lessee
Insurance:	Lessee to maintain Public Risk Insurance and General Insurance on the building. Public Liability to be set at \$10(M)

Officer Comments

The Assignee intends to continue to use the site for aircraft purposes and as the proposal meets the intended use of the current lease documents the application should be approved.

The Assignee shall be responsible for the full cost of the documentation, registration and statutory advertising.

Analysis of Financial and Budget Implications

Fees for the airport hanger sites are endorsed each year as part of Councils annual budget. The annual lease rental, administration fee and municipal rates are to be increased annually in line with Councils *Commercial and Industrial Rate* increases throughout the balance of the lease term.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Per the recommendation listed in this report (as amended by Council).

Option 3

Council refuses to support the proposal for the assignment of the Lease over Bunbury Airport Site No. 22 on Reserve 27686, Lot 501 South Western Highway, Bunbury.

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

- 1. Council agrees to grant the Assignment of Lease over Bunbury Airport Site No. 22, Reserve 27686, Lot 501 South Western Highway, Bunbury from Mr Colin Mulligan to Mr Colin Dinis and Roger Bunny for the unexpired term of the lease (to 30 June 2011) in accordance with the terms and conditions specified in the report.**
- 2. Public notice of the intention to Assign the Lease will be provided in accordance with Section 3.58 (3) and (4) of the Local Government Act 1995, through notices displayed on Public Notice Boards at the City's Administration centre, at both the City's libraries, published in a local newspaper and on the City's website.**
- 3. Subject to no objecting submissions being received the Deed of Assignment of Lease be finalised.**
- 4. Obtain Minister for Lands approval.**
- 5. The Assignee to be responsible for the full costs of documentation, registration and statutory advertising associated with the assignment of the lease.**

CARRIED

13 votes "for" / Nil votes "against"

11.11 Christmas Extended Trading Hours 2010 *(was listed as item 11.10 on the meeting agenda)*

File Ref:	A00357
Applicant/Proponent:	Internal Report
Author:	Jack Dyson, Senior Administration Officer
Executive:	Ken Weary, Executive Manager Corporate Services
Attachments:	Nil

Recommendation

Council approve extended 2010/11 Christmas trading hours for the City of Bunbury in accordance with those identified in option ___ below:

Summary

The Department of Commerce, Consumer Protection (DCCP) has given notification of the approved extended Christmas retail trading hours for the Perth metropolitan area in 2010 and invited non-metropolitan Local Government Authorities to consider their extended retail trading arrangements in their municipalities.

The list of approved hours for the Perth metropolitan area is as follows:

DAY/DATE	TIME
Sunday, 5 December 2010	10:00am – 5:00pm
Monday, 6 December 2010	8:00am – 9:00pm
Tuesday, 7 December 2010	8:00am – 9:00pm
Wednesday, 8 December 2010	8:00am – 9:00pm
Thursday, 9 December 2010	8:00am – 9:00pm
Friday, 10 December 2010	8:00am – 9:00pm
Saturday, 11 December 2010	8:00am – 5:00pm
Sunday, 12 December 2010	10:00am – 5:00pm
Monday, 13 December 2010	8:00am – 9:00pm
Tuesday, 14 December 2010	8:00am – 9:00pm
Wednesday, 15 December 2010	8:00am – 9:00pm
Thursday, 16 December 2010	8:00am – 9:00pm
Friday, 17 December 2010	8:00am – 9:00pm
Saturday, 18 December 2010	8:00am – 5:00pm
Sunday, 19 December 2010	10:00am – 5:00pm
Monday, 20 December 2010	8:00am – 9:00pm
Tuesday, 21 December 2010	8:00am – 9:00pm
Wednesday, 22 December 2010	8:00am – 9:00pm
Thursday, 23 December 2010	8:00am – 9:00pm
Friday, 24 December 2010	8:00am – 6:00pm
Saturday, 25 December 2010 (P/H)	CLOSED
Sunday, 26 December 2010 (P/H)	10:00am – 5:00pm
Monday, 27 December 2010 (P/H)	8:00am – 5:00pm
Tuesday, 28 December 2010 (P/H)	8:00am – 5:00pm
Wednesday, 29 December 2010	8:00am – 9:00pm

Thursday, 30 December 2010	8:00am – 9:00pm
Friday, 31 December 2010	8:00am – 6:00pm
Saturday, 1 January 2011 (P/H)	8.00am – 5.00pm

Background

It is proposed, Council adopt 2010/11 extended Christmas trading hours as per one of the options listed below.

These hours vary from the extended Christmas trading hours approved for the Perth metropolitan area as the City of Bunbury already operates a seven day trading regime (Exemption Order) which was published in the Government Gazette on 21 November 2008 and came into effect from 4 January 2009.

This exemption order restricts trade in Bunbury on Sundays and Public Holidays (other than Good Friday, Easter Sunday, ANZAC day and Christmas day) to between the hours of 10.00am and 4.00pm. Any other public holidays are able to be traded upon between the hours of 10.00am and 4.00pm.

The State Government is committed to empowering non-metropolitan Local Government Authorities (subject to Ministerial endorsement) to extend general retail trading hours beyond those stipulated in the *Fair Trading Act* and approved for the Perth metropolitan area. Ministerial approval is required however and will be subject to a clear indication that appropriate consultation has taken place and the majority of general retailers support the proposal.

Officer Comments

The approved Perth metropolitan hour's package is made available to regional localities without the need for further action, unless the locality seeks variation to the approved hours.

Any requested variations to the approved Perth metropolitan hours need to be submitted to the department by 16 September 2010 in order to obtain ministerial approval.

The approved Perth metropolitan area hours in 2009/10 contained three (3) weeks of extended late night trading in the lead up to Christmas, much the same as is approved for this year, however last year Council elected to reduce the number of late night trading hours in Bunbury to just the one week leading to Christmas.

It must be remembered, that in seeking and receiving approval for extended trade over this period, it is not compulsory for local business to open. Seeking and receiving approval only certifies that they are entitled to open if they so wish during those approved hours on those specific days.

Community Consultation

On receipt of the advice from the Department of Commerce, consultation was undertaken with Chamber of Commerce and Industries, local Members of Parliament, local retailers and local Shopping Centre Managers in accordance with the Department of Commerce, Consumer Protection and Councils Extended Trading Policy guidelines.

Feedback was sought in relation to the approved Perth metropolitan areas and their suitability to the Bunbury area.

Feedback and comment was received from the following:

Bunbury Chamber of Commerce and Industry – *“Feedback from our Executive Members indicates they have no real objections to the hours as put forward (which were the approved Perth metropolitan hours). We have also conducted a survey of a sample of our members, the vast majority agree to just the one week of extended late night trade in the week leading up to Christmas and a variation to the Sunday and Public Holiday hours from between 10.00am and 4.00pm.*

Approximately 50% of those surveyed also indicated the following points of clarification:

- a) They will likely remain closed on Sunday 26 December and Monday 27 December, which are declared public holidays; and*
- b) They will likely not open extended hours on the Monday and Tuesday evenings leading up to Christmas day...”*

Bunbury Forum – *“We have no objection to the hours prescribed, on the basis that the City of Bunbury accepts them over their regulated trading hours, for example Public Holiday trading and Sunday trading is normally 10.00am to 4.00pm, the variation is acceptable to us either way.*

In respect to the midweek closing times, whilst the metropolitan approved hours reflect the WA Government push with midweek deregulation, we see no reason why not to accept these hours on the basis that the region supports a consumer base that is impacted on by shift work and these additional hours may assist them with trade during December.”

John Castrilli MLA – *“I do not consider it necessary to have such extensive additional trading hours as has been approved for the metropolitan area. I therefore do not support the scope of extended hours as proposed by the City of Bunbury. In particular, I do not support trading for Boxing Day, Sunday 26 December.*

I would be supportive of a reduced extended trading hour’s proposal that is more suitable to the City of Bunbury community.”

Bunbury Camera House – *“I do have objection to the Sunday 26 December and that of Saturday 1 January 2011, as I should have more than one day over Christmas to spend with my family.”*

Parks Shopping Centre – *“We have no problem with the Christmas trading hours.”*

Retravisin Stores – *“We have Retravisin stores in Bunbury, Busselton and Margaret River. One metropolitan store at O’Connor. We support the hours as proposed, councils should not tamper with them, at least then all stores are doing the same thing.”*

Bunbury Centrepoint – *“I write to confirm that we have no objections to the proposed hours and therefore look forward to receiving your confirmation in due course that these hours have been approved.”*

Barry House MLC – “I have no objection to the extended trading hours applied for.”

Analysis of Financial and Budget Implications

There are no financial or budgetary implications arising from this proposal.

Options

Option 1

Council adopt the approved Perth Metropolitan Extended trading days for Christmas/New year 2010/2011, with a variation to the trading hours on Sundays and Public Holidays from the hours of 10.00am until 4.00pm in accordance with the current approved “exemption order.”

DAY/DATE	TIME
Sunday, 5 December 2010	10:00am – 4:00pm
Monday, 6 December 2010	8:00am – 9:00pm
Tuesday, 7 December 2010	8:00am – 9:00pm
Wednesday, 8 December 2010	8:00am – 9:00pm
Thursday, 9 December 2010	8:00am – 9:00pm
Friday, 10 December 2010	8:00am – 9:00pm
Saturday, 11 December 2010	8:00am – 5:00pm
Sunday, 12 December 2010	10:00am – 4:00pm
Monday, 13 December 2010	8:00am – 9:00pm
Tuesday, 14 December 2010	8:00am – 9:00pm
Wednesday, 15 December 2010	8:00am – 9:00pm
Thursday, 16 December 2010	8:00am – 9:00pm
Friday, 17 December 2010	8:00am – 9:00pm
Saturday, 18 December 2010	8:00am – 5:00pm
Sunday, 19 December 2010	10:00am – 4:00pm
Monday, 20 December 2010	8:00am – 9:00pm
Tuesday, 21 December 2010	8:00am – 9:00pm
Wednesday, 22 December 2010	8:00am – 9:00pm
Thursday, 23 December 2010	8:00am – 9:00pm
Friday, 24 December 2010	8:00am – 6:00pm
Saturday, 25 December 2010 (P/H)	CLOSED
Sunday, 26 December 2010 (P/H)	10:00am – 4:00pm
Monday, 27 December 2010 (P/H)	10.00am – 4:00pm
Tuesday, 28 December 2010 (P/H)	10:00am – 4:00pm
Wednesday, 29 December 2010	8:00am – 9:00pm
Thursday, 30 December 2010	8:00am – 9:00pm
Friday, 31 December 2010	8:00am – 6:00pm
Saturday, 1 January 2011 (P/H)	10.00am – 4.00pm

Option 2

Council not approve the extended trading hours granted for the Perth metropolitan area as the hours applicable for the City of Bunbury general retail trading over the 2010 Christmas period and submit the following recommended hours for approval by the Minister as applicable for the City of Bunbury:

DAY/DATE	TIME
Monday, 20 December 2010	8:00am – 9:00pm
Tuesday, 21 December 2010	8:00am – 9:00pm
Wednesday, 22 December 2010	8:00am – 9:00pm
Thursday, 23 December 2010	8:00am – 9:00pm
Friday, 24 December 2010	8:00am – 6:00pm
Saturday, 25 December 2010 (P/H)	CLOSED
Sunday, 26 December 2010 (P/H)	10:00am – 4:00pm
Monday, 27 December 2010 (P/H)	10.00am – 4:00pm
Tuesday, 28 December 2010 (P/H)	10:00am – 4:00pm
Wednesday, 29 December 2010	8:00am – 9:00pm
Thursday, 30 December 2010	8:00am – 9:00pm
Friday, 31 December 2010	8:00am – 6:00pm
Saturday, 1 January 2011 (P/H)	10.00am – 4.00pm

Option 3

Council approve alternate times and dates to either of the aforementioned options.

Outcome – Council Committee Meeting 7 September 2010

Cr Craddock disclosed an impartiality interest in this item (see section 7) as he is a retailer in the CBD. He will stay, participate and vote on the matter.

The recommendation with option 2 was moved Cr Craddock, seconded Cr Major.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

Council approve extended 2010/11 Christmas trading hours for the City of Bunbury in accordance with those identified in option 2 below:

DAY/DATE	TIME	
Monday	20 December 2010	8:00am – 9:00pm
Tuesday	21 December 2010	8:00am – 9:00pm
Wednesday	22 December 2010	8:00am – 9:00pm
Thursday	23 December 2010	8:00am – 9:00pm
Friday	24 December 2010	8:00am – 6:00pm
Saturday	25 December 2010 (P/H)	CLOSED
Sunday	26 December 2010 (P/H)	10:00am – 4:00pm
Monday	27 December 2010 (P/H)	10.00am – 4:00pm
Tuesday	28 December 2010 (P/H)	10:00am – 4:00pm
Wednesday	29 December 2010	8:00am – 9:00pm
Thursday	30 December 2010	8:00am – 9:00pm
Friday	31 December 2010	8:00am – 6:00pm
Saturday	1 January 2011 (P/H)	10.00am – 4.00pm

CARRIED
10 votes "for" / 3 votes "against"

It was requested that the votes be recorded as follows:

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

11.12 Financial Statements - July 2010 *(was listed as item 11.12 on the meeting agenda)*

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

Recommendation

The Financial Statements for the period ending 31 July 2010 be received.

Summary/Background

Financial Statements for the period ending 31 July 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

Outcome – Council Committee Meeting 7 September 2010

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

Cr Steck wanted it on the record that she requires information regarding the CCTV camera's as to whether the amount quoted in the financial statements has come from the grant or from normal operating capital. She also requested information regarding whether the amount quoted for the Timber Jetty maintenance has come from the grant or from operating capital. Executive Manager Corporate Services

stated that he would have to look into the CCTV item but he can say that the Timber Jetty amount was from the grant.

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

The Financial Statements for the period ending 31 July 2010 be received.

CARRIED
12 votes "for" / 1 vote "against"

It was requested that the votes be recorded as follows:

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

11.13 Advisory Committee and/or Project Control Group Minutes to be noted at the Council Committee Meeting *(was listed as item 11.13 on the meeting agenda)*

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	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 Environmental and Sustainability Advisory Committee (12/08/2010)
Author: Ben Deeley, Environmental Officer
File: A02445
2. Title: Minutes – Bunbury Airport Advisory Committee (19/08/2010)
Author: Nigel Archibald, Airport Reporting Officer
File: F00080
3. Title: Minutes – Special Meeting – Land Rationalisation & Acquisitions Committee (19/08/2010)
Author: Paul Davies, Town Planner
File: A03518
4. Title: Minutes – Bunbury Outer Harbour Taskforce (27/07/2010)
Author: Greg Trevaskis, Chief Executive Officer
File: A02175-08

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

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

Committee Recommendation

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

1. Title: Minutes – Bunbury Environmental and Sustainability Advisory Committee (12/08/2010)
Author: Ben Deeley, Environmental Officer
File: A02445
2. Title: Minutes – Bunbury Airport Advisory Committee (19/08/2010)

Author: Nigel Archibald, Airport Reporting Officer
File: F00080

- 3. Title: Minutes – Special Meeting – Land Rationalisation & Acquisitions Committee (19/08/2010)**

Author: Paul Davies, Town Planner
File: A03518

- 4. Title: Minutes – Bunbury Outer Harbour Taskforce (27/07/2010)**

Author: Greg Trevaskis, Chief Executive Officer
File: A02175-08

CARRIED
13 votes “for” / Nil votes “against”

12. Motions on Notice

Nil

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

Nil

14. Items to be Noted or Endorsed

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

File Ref:	Various
Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	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 1 August – 31 August 2010
Author: David Ransom, City Accountant
File: A00083

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

Outcome – Council Committee Meeting 7 September 2010

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

The Mayor put the motion to the vote and was adopted to become the Committee's recommendation on the matter.

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 1 August – 31 August 2010
Author: David Ransom, City Accountant
File: A00083

CARRIED 13 votes "for" / Nil votes "against"

14.2 Items to be Endorsed (No Discussion) at the Council Committee Meeting

There are no items recommended for endorsement.

15. Confidential Business as Stipulated Under Section 5.23(2) of the Local Government Act 1995

Nil

16. Close of Meeting

The meeting was declared closed at 8.15pm.