



11 December 2007

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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

Term	Explanation
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
BD	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
GFA	Gross Floor Area
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre

Term	Explanation
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NLA	Nett Lettable Area
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
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

Term	Explanation
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

COUNCIL (STANDING) COMMITTEE

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, 11 December 2007.

MINUTES

11 December 2007

NOTE: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the subsequent Council Meeting on 18 December 2007.

1. DECLARATION OF OPENING BY THE PRESIDING MEMBER

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

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor S Craddock
Members:	Councillor J Jones
	Councillor T Dillon
	Councillor S Rooney
	Councillor L Worthington
	Councillor B Kelly
	Councillor W Major
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
Councillor M Steck	
Executive Management Team (Non-Voting)	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Mr D Marzano
Council Officers (Non-Voting):	
Manager Development Services:	Mr G Fitzgerald
Manager Health:	Mr T Hunter
Manager - Economic & Social Development:	Ms J Massey
Senior Planner - Strategic & Environment:	Mr T Farnworth
Planning Officer:	Mr K Townroe
Administration Officer Corporate Services:	Ms D Ryan

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PRESENT (continued)

Others (Non-Voting):	
Members of the Public:	15 (approx.)
Members of the Press:	1

APOLOGIES:

Cr A Leigh - Leave of absence 7- 21 December 2007

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

Not applicable.

4. PUBLIC QUESTION TIME

Nil.

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

Nil.

6. CONFIRMATION OF PREVIOUS MINUTES

A motion to confirm the minutes of the previous meeting, was moved Cr Major, seconded Cr Dillon and adopted to become the Committee's decision.

COMMITTEE DECISION

The minutes of the Council (Standing) Committee Meeting held 20 November 2007, 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 Stephen Craddock disclosed an impartiality interest in the item titled "*Proposed 4-level Office Building at Lot 3 (No. 17) Stirling Street, Bunbury*" as his parents own property nearby and he is a member of a Club that owns an adjacent property.

Cr Shane Rooney disclosed a financial interest in the item titled "*Proposed Change of Use to 'Showroom & Music Tuition' - Lot 1 (No. 100) Spencer Street, Bunbury*" as he owns a property in close proximity.

Cr Michelle Steck disclosed an impartiality interest in the item titled "*Proposed Licence Agreement – Portion of Blair Street Road Reserve to Citygate Properties Pty Ltd*" as she was formerly employed by the applicant as a Federal Electorate Officer.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS

Nil.

10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS

The Presiding Member confirmed that the petition tabled at the Annual Electors Meeting on 29 November 2007, will be the subject of a report to Council at the meeting on 18 December 2007.

11. RECEPTION OF REPORTS AND RECOMMENDATIONS FROM OFFICERS & ADVISORY COMMITTEES

11.1 SOUTH WEST YOUTH DRIVER DEVELOPMENT PROGRAM AND SOUTH WEST TOURING CAR CLUB INC. - APPLICATION TO LEASE/SUB-LEASE PORTION MOTORSPORTS PRECINCT RESERVE 670 (LOT 1018) SOUTH WESTERN HIGHWAY, BUNBURY

File Ref:	F00014
Applicant/Proponent:	SW Youth Driver Development Program/SW Touring Car Club Inc.
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

Reserve 670 (Lot 1018) South Western Highway is held by the City of Bunbury as Endowment Land under Crown Land Record 3113/541 and made available for the purpose of "Recreation" with the power to lease for a period of up to twenty-one (21) years. A location plan is **attached** at Appendix 1.

At the Council Meeting held on 18 September 2007, Council decided to grant a proposal to grant the South West Youth Driver Development Program ("SWYDDP") and South West Touring Car Club Inc. ("SWTCC") a lease/sub-lease over portion Reserve 670 (Lot 1018) South Western Highway in Bunbury, subject to the intention being advertised for public comment.

The lease/sub-lease proposal was subsequently advertised for public information pursuant to Section 3.58(3) and (4) of the Local Government Act 1995. At the close of the public submission period on 30 October 2007, two submissions had been received both objecting to the proposal.

The issue is now referred back to Council for further consideration and a final decision. The main points by objecting submitters (and officers' responses) have been listed in the Schedule of Submissions **attached** at Appendix 2. A copy of each submission (in full) has also been circulated to members in a confidential report under separate cover.

Proposed Sub-lease (SW Youth Driver Development Program)

Details of the proposed sub-lease over portion Reserve 670 (Lot 1018) South Western Highway, are as follows:

Head Lessee:	Bunbury Motorcycle Club Inc.
Proposed Sub-lessee:	South West Youth Driver Development Programme
Term of Sub-Lease:	Six (6) years
Option for Extended Term:	Ten (10) years

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Sub-lease Rental:	Peppercorn only subject to capital improvements to the sub-lease area being undertaken by the sub-lessee. Lease rental for any extended term to be as determined by the Valuer General.
Permitted Use:	Youth Driver Training Centre
Statutory Obligations:	Sub-lessee to comply with all Acts, Statutes, Ordinances, Orders, Local Law and regulations with respect to operating the site as a Youth Driver Training Centre.
Insurance:	The sub-lessee to maintain a Public Risk and General Insurance Policy over the sub-lease area. Public liability cover to be set at \$10(M).
Outgoings:	Responsibility of the sub-lessee
Special Conditions:	The sub-lessee is required to obtain a Development Approval (and any necessary Building Licences) for the Youth Driver Training Centre prior to commencing building and/or operations on the site.
Document Costs:	The sub-lessee to be responsible for full cost of document preparation, registration, property valuation assessments and advertising associated with the application for the sub-lease.

Proposed Lease (SW Touring Car Club Inc.)

Details of the proposed lease over portion Reserve 670 (Lot 1018) South Western Highway by the South West Touring Car Club Inc., are as follows:

Proposed Lessee:	South West Touring Car Club Inc.
Term:	Five (5) years
Option for Extended Term:	Not applicable.
Lease Rental:	\$4,160 per annum (plus GST)
Permitted Use:	Motor vehicle rally circuit
Statutory Obligations:	Lessee to comply with all Acts, Statutes, Ordinances, Orders, Local Law and regulations with respect to operating the site as a motor vehicle rally circuit.
Insurance:	The lessee to maintain a Public Risk and General Insurance Policy over the sub-lease area. Public liability cover to be set at \$10(M).
Outgoings:	Responsibility of the lessee
Special Conditions:	The lessee is required to obtain a Development Approval (and any necessary Building Licences) for the motor vehicle rally circuit prior to commencing building and/or operations on the site.

Document Costs:	The lessee to be responsible for full cost of document preparation, registration, property valuation assessments and advertising associated with the application for the lease.
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Background

An area at the Motorsports Complex known as the "common gravel area" is the subject of the application from SWYDDP. The Bunbury Motor Cycle Club Inc. currently holds the lease over the common gravel area between the Bunbury Car Club Inc. lease area (on Reserve 31466 - Lot 300) and the Bunbury Kart Club Inc. on the western portion of Reserve 670 (Lot 1018) as shown on the location plan. Each Club has reciprocal rights over the use of this area.

The area to the south, commonly referred to as the "landfill site" (subject of the proposed lease to SWTCC) is unencumbered land.

Both sites are used for overflow parking when large events are held at the precinct, in particular, Bunbury Speedway events. These reciprocal rights will remain during the lease/sub-lease term.

The lease/sub-lease proposals were previously considered by Council at its meeting on 18 September 2007, where the following decision was made:

Council Decision 192/07 - 18 September 2007

PART A - South West Youth Driver Development Programme

Council agrees to grant the South West Youth Development Driving Programme a sub-lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a six (6) year term with a further option of tenure (either by lease or sub-lease) of ten (10) years, for use as a Young Driver Training Centre subject to the terms and conditions as stated in this report to Council and the following:

- 1. The intention to sub-lease the land to be advertised locally pursuant to Section 3.58(3) and (4) of the Local Government Act 1995 via a notice in the City Update column of the Bunbury Mail Newspaper and notices on Public Notice Boards at the City's Administration Centre, both libraries and the City's website.*
- 2. The Minister for Land to grant approval for the sub-lease.*
- 3. Subject to no objecting submissions being received (and receipt of Ministerial approval) the Chief Executive Officer is authorised to proceed with preparation and signing of the sub-lease agreement.*
- 4. The sub-lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.*

PART B - South West Touring Car Club Inc.

Council agrees to grant the South West Touring Car Club Inc. a lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a five (5) year term for use as a dirt autocross racing circuit, subject to the terms and conditions as stated in this report to Council and the following:

- 1. The intention to lease the land to be advertised locally pursuant to Section 3.58(3) and (4) of the Local Government Act 1995 via a notice in the City Update column of the Bunbury Mail Newspaper and notices on Public Notice Boards at the City's Administration Centre, both libraries and the City's website.*
- 2. The Minister for Land to grant approval for the lease.*
- 3. Subject to no objecting submissions being received (and receipt of Ministerial approval) the Chief Executive Officer is authorised to proceed with preparation and signing of the lease agreement.*
- 4. The lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.*

Statutory Advertising

An advertisement giving public notice that the City intends to enter into a lease/sub-lease was listed in the Bunbury Herald Newspaper on 9 October 2007.

Notices inviting members of the public to make a submission were also displayed on the City's website and on notice boards in the Customer Service Centre and at both libraries.

Due to the long association that Mr Des Ferris and Mr John Gandossi of Speedworx Pty Ltd have at the Bunbury Speedway, a copy of Council's decision, the site plans and a copy of the notice inviting public comment, were forwarded to them for their information. Both men have since lodged a joint submission objecting to the City's proposal to enter into the new lease/sub-lease arrangements.

This submission (in part) relates to the current legal dispute between Speedworx Pty Ltd (the Plaintiff) which is claiming damages against the Bunbury Car Club Inc. and others.

Speedworx Pty Ltd is not claiming enforcement of any lease, right of occupancy or any other proprietary interest in the land subject of this lease/sub-lease proposal.

Speedworx Pty Ltd does not have any enforceable leasehold interest over land at the Motorsports Precinct as any such interest would have to have received the consent of the City Council and endorsement by the Minister for Lands.

Schedule of Submissions

The closing date for submissions was 30 October 2007. Two (2) submissions were received and the main points raised in these (and officer's responses) have been listed in the Schedule of Submissions previously referred to under the heading titled "Summary" in this report.

For information, a copy of each submission in full has also been circulated to members in a confidential report under separate cover.

Strategic and/or Regional Outcomes

Leasing proposals are considered with reference to the Council's 2007-2012 Strategic Plan through Strategic Direction 2.4 which states that the City will *"develop a property strategy that benefits the City's residents, businesses, community and sporting organisations."*

Community Consultation

The proposal giving notice of the City's intention to lease/sub-lease portion of the Motorsports Precinct was advertised pursuant to Section 3.58 of the Local Government Act 1995. Members of the public were given a fourteen (14) day period in which to lodge a submission.

Councillor/Officer Consultation

Council officers have held discussions with the applicants and have mutually agreed on the terms and conditions of the relevant leases.

Analysis of Financial and Budget Implications

The Office of the Valuer General has assessed market lease rental based on the Management Order and permitted use.

The applicants are to meet the full cost of document preparation, registration fees, valuation assessments and advertising. Furthermore, the applicants will meet all development costs associated with their proposals.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The proposed leases provide an economic benefit to the City through promotion of ancillary businesses and employment opportunities.

Social Issues

The SWYDDP underpins the school curriculum for local high schools. The proposed venue will also provide a social outlet for local residents and visitors of the Greater Bunbury Region.

Environmental Issues

Each applicant is required to comply with all Acts, statutes, ordinances, orders, local laws and regulations associated with their activities. The SWTCC will be required to cordon off the landfill site from Manea Park.

Heritage Issues

The area is designated as a Motorsports precinct and there are no known heritage issues to consider.

Council Policy Compliance

There is no Council policy over use of the proposed lease/sub-lease area.

Legislative Compliance

The intention to enter into separate leases has been advertised pursuant to Section 3.58(3) and (4) of the Local Government Act 1995.

Delegation of Authority

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

Once the Council has given its final approval for the proposal (as outlined in this report) to proceed, the Chief Executive will have the necessary documentation prepared for signature.

Relevant Precedents

The City of Bunbury has longstanding lease agreements over the Motorsports precinct with the Bunbury Car Club Inc., Bunbury Kart Club Inc. and the Bunbury Motorcycle Club Inc. - all have given their approval for the lease/sub-lease proposal to proceed.

Options

Option 1

Per the officer's recommendation listed in this report.

Option 2

Per the officer's recommendation (as listed in this report) together with any amendments suggested by members.

Option 3

Council may opt not to consent to the new lease or sub-lease proposal.

Conclusion

The City is not a party to the current legal dispute between Speedworx Pty Ltd and the Bunbury Car Club Inc. and others.

Speedworx does not hold any enforceable leasehold interest at the Motorsports Precinct and as such does not have any right or interest in the land subject of this lease/sub-lease application or any right to determine future development or uses associated with the relevant reserves at the precinct.

The current lessees of the Motorsports Precinct being the Bunbury Car Club Inc., Bunbury Kart Club Inc. and the Bunbury Motorcycle Club Inc. - have all given their approval for the SWTCC lease and SWYDDP sub-lease proposals to proceed.

The Bunbury Motorcycle Club Inc. currently holds the lease over that portion of the Motorsports Precinct known as the "common gravel area" and which forms part of the proposed SWYDDP sub-lease area. It extends reciprocal access and parking use-rights to other lessees currently the Bunbury Car Club Inc. and Bunbury Kart Club Inc. These reciprocal use-rights will be retained in the proposed sub-lease with the SWYDDP and extended to cover the landfill area (to be leased by SWTCC) which is used for overflow public parking and transport vehicles during major events.

It is intended that throughout the term of the new lease/sub-lease proposal, the various lessees/sub-lessees at the Motorsports Precinct will form a Management Committee (comprising equal representation from each group) to ensure major events and use of the common gravel area, landfill site and other common areas at the Motorsports Precinct are well coordinated and in keeping with the "permitted use" of the facility. This committee will be formed within two (2) months of commencement of the new lease/sub-lease as recommended in this report.

In the event that the City (in the future) receives a further application from Speedworx Pty Ltd or another party to lease/sub-lease the landfill site at the Motorsports Precinct as part of a major re-development proposal (and the Council decides that the proposal will provide a significant strategic benefit to the City), the SWTCC will be required to act in good faith in relation to negotiating a change in its leasing arrangements to accommodate the new proposal. The SWTCC has indicated that it has no objections to this condition.

Recommendation

PART A - South West Youth Driver Development Programme

Council agrees to grant the South West Youth Development Driving Programme a sub-lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a six (6) year term with a further option of tenure (either by lease or sub-lease) of ten (10) years, for use as a Young Driver Training Centre subject to the terms and conditions as stated in this report to Council and the following:

1. The Minister for Land to grant approval for the sub-lease.
2. The sub-lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.

PART B - South West Touring Car Club Inc.

Council agrees to grant the South West Touring Car Club Inc. a lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a five (5) year term for use as a dirt autocross racing circuit, subject to the terms and conditions as stated in this report to Council and the following:

1. The Minister for Land to grant approval for the lease.
2. The lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.

PART C - Submitters

A letter of thanks to be sent on behalf of the Mayor and Councillors to the authors of the two (2) submissions received concerning the proposal to lease/sub-lease portion of Reserve 670 (Lot 1018) South Western Highway (Motorsports Precinct) to the South West Youth Driver Development Programme and South West Touring Car Club Inc.

Outcome of the Council Committee Meeting - 11 December 2007

Mr van Gent and Mr Dennis Courtney (on behalf of the South West Youth Driver Development Program) responded to queries from committee members concerning funding of proposed capital improvements, the term of the lease and details of the Youth Driver Training Programme. Mr Courtney confirmed that lessees at the Motorsports Precinct will form a Management Committee to ensure that day-to-day access to (and activities at) the various lease sites within the complex are well coordinated. A calendar of events will also be prepared to prevent problems with traffic management or access during special events.

The Manager of Administration & Property Services confirmed that any development at the Motorsports Precinct will be subject to a Development Application (and closely monitored).

The City's solicitor, Mr Chris Garvey, responded to questions concerning the current legal dispute between Speedworx Pty Ltd and the speedway operator (Bunbury Car Club Inc.). He confirmed that Speedworx does not hold a lease over any portion of the Motorsports Precinct and that the legal dispute does not concern land-use or access rights.

During discussion, Cr Dillon foreshadowed the following motion:

"The proposal for a lease/sub-lease to the SW Youth Driver Development Programme and SW Touring Car Club Inc. over portion of the Motorsports Precinct be deferred until after the Supreme Court hearing to settle a dispute between Speedworx Pty Ltd and the Head Lessee at the speedway (Bunbury Car Club Inc.) scheduled to take place as early as February 2008."

The recommendation (as printed) was moved Cr Major, seconded Cr Kelly. It was put to the vote in three separate parts with the following outcome:

Part A - 10 votes "for" / 2 votes "against" (Crs Rooney and Dillon requested their votes "against" the motion, be recorded)

Part B - 10 votes "for" / 2 votes "against" (Crs Rooney and Dillon requested their votes "against" the motion, be recorded)

Part C - 7 votes "for" / 5 votes "against" (Crs Kelly, Jones, Rooney, Dillon & Steck requested that their votes against this motion, be recorded).

The committee recommendation (in full) is as follows:

Committee Recommendation

PART A - South West Youth Driver Development Programme

Council agrees to grant the South West Youth Development Driving Programme a sub-lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a six (6) year term with a further option of tenure (either by lease or sub-lease) of ten (10) years, for use as a Young Driver Training Centre subject to the terms and conditions as stated in this report to Council and the following:

- 1. The Minister for Land to grant approval for the sub-lease.***
- 2. The sub-lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.***

PART B - South West Touring Car Club Inc.

Council agrees to grant the South West Touring Car Club Inc. a lease over portion of Reserve 670 (Lot 1018) South Western Highway, Bunbury, for a five (5) year term for use as a dirt autocross racing circuit, subject to the terms and conditions as stated in this report to Council and the following:

- 1. The Minister for Land to grant approval for the lease.***
- 2. The lessee to pay the full cost of document preparation, registration fees, valuation assessments and advertising.***

PART C - Submitters

A letter of thanks to be sent on behalf of the Mayor and Councillors to the authors of the two (2) submissions received concerning the proposal to lease/sub-lease portion of Reserve 670 (Lot 1018) South Western Highway (Motorsports Precinct) to the South West Youth Driver Development Programme and South West Touring Car Club Inc.

11.2 NEW POLICY - HIRING OF CITY OF BUNBURY BILLBOARDS

File Ref:	R00719
Applicant/Proponent:	Internal Report
Author:	Jackie Massey, Manager - Economic & Social Development
Executive:	Domenic Marzano, Executive Manager City Life

Summary

The proposal is for Council to adopt a policy for hiring of City of Bunbury billboards to ensure that the standards and expectations of Council and the general public are met and maintained.

The draft policy **attached** at Appendix 3, identifies those billboards that are for City of Bunbury corporate and tourism marketing use and those available for community hire.

Background

In order for the City of Bunbury to maintain and maximise corporate and tourism marketing on City of Bunbury billboards, and to provide designated billboard space for hire by community groups, a draft policy has been formulated. This policy will provide clarity for Council staff and prospective hirers and ensure that the billboards are managed efficiently and equitably.

Strategic and/or Regional Outcomes

The proposal is consistent with the City's Corporate Strategic Plan 2007-2012 Strategy 6.1 "*Celebrate and reinforce a positive sense of community*".

Community Consultation

No community consultation has been undertaken - it is not relevant in this instance. Community groups will continue to be able to hire billboards under similar conditions to those currently available.

Councillor/Officer Consultation

This matter has been reviewed by Council staff within the City Life Department and by the Executive Management Team.

Analysis of Financial and Budget Implications

The recommendation will not impact on the existing Annual budget nor are there any significant expenses associated with the proposal from a Council perspective.

Economic, Social, Environmental and Heritage Issues

There are no economic, social, environmental or heritage issues associated with this proposal.

Council Policy Compliance

There is currently no policy concerning billboard hire.

Legislative Compliance

Legislative requirements relating to the Local Government Act 1995 or any other Act, Local Law or Regulations have been complied with in the processes leading up to the finalisation of this proposal.

Delegation of Authority

Delegation of authority is not a relevant option in this instance.

Relevant Precedents

There are no known directly relevant precedents in respect of this matter.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

The Council resolves not to adopt the draft policy titled "Hiring of City Billboards".

Conclusion

It is important for the City of Bunbury to maintain and maximise corporate and tourism marketing on the City of Bunbury billboards whilst at the same time providing designated billboard space for community groups. The proposed policy achieves these objectives and at the same time provides guidelines governing community hire which will ensure efficient and equitable administration of the hire arrangements.

Recommendation

Council adopts the draft policy titled "Hiring of City Billboards".

Outcome of the Council Committee Meeting - 11 December 2007

The Manager - Economic & Social Development responded to queries from committee members.

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

After some discussion concerning definition of "community advertising", maximum period for display and applicable fees, the Presiding Member put the motion to the vote and it was adopted unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

Council adopts the draft policy titled "Hiring of City Billboards".

11.3 ALLOCATION OF DEPARTMENT OF CULTURE AND THE ARTS \$1 MILLION ELECTION PROMISE 2001 *(WAS LISTED AS ITEM 11.15 ON THE MEETING AGENDA)*

File Ref:	A02773
Applicant/Proponent:	Internal Report
Author:	Domenic Marzano, Executive Manager City Life
Executive:	Domenic Marzano, Executive Manager City Life

Summary

In October 2007, the City of Bunbury was informed by the Department of Culture and the Arts ("DCA") that if the \$1million State Government commitment towards creation of a Bunbury Regional Museum (provided to the City in 2001) is not allocated to a relevant initiative by 31 December 2007, those funds will be returned to the State Government Community Development Fund.

As no immediate source of funding for a museum could be identified, the Three-Waters Centre Project Control Group has recommended that the funds be reallocated toward upgrade and improvements of the Bunbury Regional Art Galleries ("BRAG") complex in Wittenoom Street, Bunbury.

A number of priorities were presented by the BRAG Board and endorsed by the Three-Waters Project Control Group. After further discussion with the DCA, a letter was received from Minister for Arts, the Hon. Sheila McHale, MLA, requesting a proposal to improve access and exhibition spaces at the BRAG. The priorities were then modified to suit the request. After submitting costings provided by a Quantity Surveyor to DCA a further communication was received from the Department's Director of Cultural Development and Strategic Programs indicating the type of projects that would receive departmental support including:

- Installation of a dual purpose lift
- Refurbishment of foyer and entry areas
- Moveable walls to increase exhibition space
- Internet capacity in gallery spaces
- Improved studio and art workshop space

Following consultation with the Bunbury Regional Art Galleries Management Board ("BRAMB") on 27 November 2007, the DCA recommendations were further refined as follows:

Installation of a dual purpose lift.....	\$448,328.00
Internet Arts Access Project.....	\$98,600.00
Refurbishment of Foyer/Hallway.....	\$97,138.00
Refurbish (and partly enclose) courtyard for exhibit of large objects/sculpture	\$134,498.00
Create storage area (south side) of building to maximize exhibition space.....	\$164,387.00

Note: The total cost is \$942,951.00. Costs are indicative and provide allowance for escalation to December 2008.

On 6 December 2007, the DCA Director of Cultural Development and Strategic Programs was notified of the refined list and supported the items as outlined above.

Background

In 2001, the State Government committed \$1million towards creation of a Bunbury Regional Museum. A feasibility study was commissioned by the City of Bunbury in 2003 (SGS Economics and Planning - 2004).

Previously, at a Council Meeting on 11 May 2004, the Council revoked a 2001 decision endorsing the existing Bunbury Regional Art Galleries site at Wittenoom and Wellington Streets for use as a museum and art gallery, and, endorsed the Island Precinct, between the Leschenault Inlet and Koombana Drive as the preferred location for a Bunbury Regional Museum and Visitor Information Centre. This decision also endorsed initiating discussions with the Noongar Cultural Centre Steering Committee on potential for a Noongar Cultural Centre to be located within the Island Precinct.

The following decision was made at the Council Meeting on 7 December 2004:

1. The State Government be requested to consider the re-allocation of funds earmarked for the Bunbury Regional History Museum for the purpose of assisting the immediate needs of the BRAG and initial funding for a museum collection.
2. Should the State Government be receptive to the (in principle) re-allocation proposal, Council prepare a specific proposal for the expenditure of the \$1 million taking into consideration Art Gallery improvements, provision for design for the proposed new Museum and allocations for initial collection purposes.

Work towards a proposal detailing how the funds would be spent to progress a museum in Bunbury led to the Three Waters Centre Implementation Plan (2006).

In addition to other reports, the *City of Bunbury Cost and Benefit Analysis of Bunbury Art Gallery Siting Options* was delivered in 2006. This report explored the relative advantages and disadvantages of co-locating the Bunbury Regional Art Galleries within the Three Waters Centre.

A Council briefing was held on 8 May, 2007 on progress of the Three Waters Centre Project and the outcomes of relevant reports. Since the original decision was made in May 2004 to site the proposed Three Waters Centre on Koombana Drive opposite the Dolphin Discovery Centre, two issues were identified. These included completion of the City Vision Strategy and the State Government announcement of the Bunbury Waterfront Project. Due to the potential impact both projects could have on the Three Waters Centre it was deemed appropriate that a review be undertaken to provide Council with options for future direction.

On 3 July 2007, Council established the Three Waters Centre Project Control Group. The current membership consists of His Worship the Mayor, Mr David Smith, the Deputy Mayor - Councillor Stephen Craddock, the Chief Executive Officer, Executive Manager City Development, Executive Manager City Life, and representatives from Bunbury Regional Art Galleries, City of Bunbury Art Collection Management Committee, Art Gallery of Western Australia, Western Australian Museum, Local Noongar Community and Bunbury Visitor Centre.

Council recently re-established the Three Waters Centre Project Control Group as an advisory committee with the following Terms of Reference:

- Review all relevant documents in relation to the Three Waters Centre, Bunbury Regional Art Galleries, Noongar Cultural Centre, Bunbury Visitor Centre and Bunbury Regional Museum.
- Recommend an appropriate allocation of the \$1 million funding received from State Government in 2001 towards the Bunbury Regional Museum.
- Consider all funding sources to assist with the Three Waters Centre.
- Provide recommendations to Council on a course of action no later than December 2007.

While Council ratified a decision on 6 November 2007 to give The Three Waters Centre Project Control Group an extension until 31 May 2008 to deliver its findings on all terms of reference, an extension could not be granted for the \$1million (2001) State Government funding towards a Bunbury Regional Museum. This timeline terminates at 31 December 2007.

Strategic and/or Regional Outcomes

Strategic Objective Three of the City of Bunbury Strategic Plan 2007-2012 includes the following deliverable: *"Complete the report on the Museum, Regional Visitor Information Centre and Noongar Cultural Centre."*

Community Consultation

Each component of the Three Waters Centre Project has undergone numerous consultations and community input whilst each was being considered as discrete projects.

Two rounds of community consultation and separate discussions with special interest groups took place during completion of the Bunbury Regional Museum Feasibility Study by SGS Economics and Planning in 2003 and accepted by Council on 11 May 2004.

Community and government stakeholders, including professional arts and cultural associations were consulted during the collation of the *City of Bunbury Three Waters Centre Implementation Plan 2006* report.

Members of the Three Waters Project Control Group, Bunbury Regional Arts Management Board, Heritage Consultant, Quantity Surveyor, Architect, and various organisations and community groups have been consulted on the issue.

Councillor/Officer Consultation

A briefing was conducted with councillors on 8 May 2007 prior to the Council decision on 3 July 2007. A range of Council Staff have been involved together with specific elected members including His Worship the Mayor - Mr David Smith, the Deputy Mayor - Cr Stephen Craddock and Cr Brendon Kelly.

Analysis of Financial and Budget Implications

This item has no current budget implications. Future decisions regarding this initiative would require substantial financial consideration. No allowance for any expenditure other than the \$1million contribution from the State Government has been budgeted within the City of Bunbury Corporate Financial Plan 2007/08 to 2011/12.

Economic, Social, Environmental and Heritage Issues

The immediate economic issue is that if the \$1million State Government funding is not allocated before 31 December 2007 the City of Bunbury will lose access to the funding.

The various reports undertaken in recent years have identified a range of other issues that need to be taken into consideration. In particular, environmental and heritage issues will need to be assessed before any development of the land opposite the Dolphin Discovery Centre is endorsed due to its proximity to the mangroves and shipwrecks located in that area. Additionally, the Bunbury Regional Art Galleries and the Bunbury Visitor Centre are currently located in buildings which are on the permanent State Register of Heritage Places.

Council Policy Compliance

There is no Council Policy relative to the proposal to allocate the \$1 million DCA funds to improvements to BRAG.

Legislative Compliance

This item does not contravene any current legislation.

Delegation of Authority

The Chief Executive Officer has no delegated authority to allocate the \$1 Million DCA funds.

Relevant Precedents

There are no relevant precedents.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Not proceed any further with this project and advise the State Government's Department of Culture and the Arts accordingly.

Conclusion

Internal and external committees/groups have been calling for establishment of a suitable museum facility over a period of time. A number of reports have also been undertaken into the issue in past years.

The Three Waters Concept initially came from the Three Waters Strategy, undertaken in 2002/2003 when land opposite the Dolphin Discovery Centre was identified as a potential Cultural Precinct, Museum and Noongar Cultural Centre.

The State Government's announcement of the Bunbury Waterfront Project and the City Vision Strategy could impact on the site identified for the Three Waters Project. The ongoing interest of the Department for Indigenous Affairs for a Noongar Cultural Centre being located in Bunbury also requires consideration.

Another issue for consideration is that the Bunbury Visitor Centre and Bunbury Regional Art Galleries are situated in heritage listed buildings built for other purposes.

A decision is required as to whether the Three Waters Centre is the best option to individually and collectively accommodate the needs of the various facilities i.e., a museum, Noongar Cultural Centre, Bunbury Visitor Centre and Bunbury Regional Art Galleries. The need to address essential conservation of the current Bunbury Regional Art Galleries building is also an integral part of this decision.

Due to the complexity of these issues and the requirement to allocate the funds before 31 December 2007 in the most appropriate manner, the Three Waters Project Control Group has recommended that funds be allocated to improvements at the Bunbury Regional Art Galleries.

Recommendation

The \$1 million allocated to the City of Bunbury by the Department of Culture and the Arts in 2001 for the purposes of a Museum, be re-allocated to the Bunbury Regional Art Galleries for use as follows:

Install a dual-purpose lift.....	\$448,328.00
Internet Arts Access Project	\$98,600.00
Refurbish Foyer/Hallway	\$97,138.00
Refurbish and partly enclose courtyard for exhibit of large objects/sculpture	\$134,498.00
Create storage area (south side of building) to maximize exhibition space	\$164,387.00

Outcome of the Council Committee Meeting - 11 December 2007

The Executive Manager of City Life indicated that the sum of \$22,416 for replacement of a wall on the northern side of the building (to provide gated access) had been left off the priority list and needs to be added to the recommendation.

The following public speakers addressed the committee and responded to questions:

- Carol Bryson (Vice Chair - Bunbury Regional Arts Management Board)
- Sonya Dye (Director - Bunbury Regional Art Galleries)
- Tresslyn Smith (Presiding Member of the Council's Art Collection Management Committee)

It was explained that the Department of Culture and the Arts has specified that the money must be spent on capital projects that increase public access to the arts (not for general building maintenance) and cannot be spent on educational programmes.

Mr Bernhard Bischoff spoke against the proposal to spend the funding on improvements at the Bunbury Regional Art Galleries. He requested that (at least) the estimated \$35,000 of funds remaining be spent on start-up options for a Bunbury Museum such as setting up a website or refurbishment of premises as interim storage space for the museum collection.

The recommendation (amended to include \$22,416 additional funding for gated access) was moved Cr Dillon, seconded Cr Craddock to become the motion under discussion.

During discussion, it was pointed out that there is the likelihood of cost overrun on some of the projects listed. The mover and seconder agreed to amend the motion to add Parts B and C as follows:

"PART B

The Minister and the Department of Culture and the Arts be informed of the decision in Part A. above and requested to confirm that each of the items listed qualifies for re-allocation of the money available.

PART C

In the event that the quotations for the works listed in Part A. above are in excess of \$1million the list to be considered to be in order of priority and the list reduced accordingly."

During discussion, Cr Major moved, Cr Dillon seconded Procedural Motion 14.1(d): *"That the motion be now put."* The Presiding Member put the motion to the vote and it was carried 7 votes "for" to 5 votes "against".

The Presiding Member put the motion (as amended) to the vote and it was carried 9 votes "for" to 3 votes "against" to become the Committee's recommendation on this issue. The votes were recorded as follows:

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

Against: Crs Jones, Steck and Punch.

Committee Recommendation

PART A

The \$1 million allocated to the City of Bunbury by the Department of Culture and the Arts in 2001 for the purpose of a museum, be re-allocated to the Bunbury Regional Art Galleries for use as follows:

<i>Install a dual-purpose lift</i>	<i>\$448,328.00</i>
<i>Internet Arts Access Project</i>	<i>\$ 98,600.00</i>
<i>Replace wall (north side) to provide gated access</i>	<i>\$ 22,416.00</i>
<i>Refurbish foyer/hallway</i>	<i>\$ 97,138.00</i>
<i>Refurbish and partly enclose courtyard for exhibit of large objects/sculpture</i>	<i>\$134,498.00</i>
<i>Create storage area (south side of building) to maximize exhibition space</i>	<i><u>\$164,387.00</u></i>
<i>Total:</i>	<i>\$965,367.00</i>

PART B

The Minister and the Department of Culture and the Arts be informed of the decision in Part A. above and requested to confirm that each of the items listed qualifies for re-allocation of the money available.

PART C

In the event that the quotations for the works listed in Part A. above are in excess of \$1million the list to be considered to be in order of priority and the list reduced accordingly.

11.4 EXTENSION OF TRADING HOURS - FITZGERALD'S IRISH BAR (*WAS LISTED AS ITEM 11.5 ON THE MEETING AGENDA*)

File Ref:	P10195
Applicant/Proponent:	Glen Fitzgerald, PDR Pty Ltd (t/as Fitzgerald's Irish Bar) and the Compagnone Family Trust
Author:	Tim Hunter, Manager Health
Executive:	Geoff Klem, Executive Manager City Development

Summary

An application has been received from Mr Glen Fitzgerald of PDR Pty Ltd (trading as Fitzgerald's Irish Tavern, 20-22 Victoria Street, Bunbury) and the Compagnone Family Trust (owners of the land) to "indefinitely extend the trading hours in the street side courtyard until 4.00am on Friday and Saturday evenings." Names of company directors for PDR Pty Ltd and Compagnone Family Trust are listed in the Confidential Report that has been circulated to members under separate cover.

It is necessary to submit the matter to Council for a decision as the Town Planning Appeal Tribunal determined on 22 January 2001, that the courtyard may only be used for public drinking "until 10.00pm on any day unless with the further approval of Council".

At its meeting on 28 June 2005, Council decided to support a proposal from PDR Pty Ltd and the Compagnone Family Trust to extend the opening times of the front courtyard of Fitzgerald's Irish Bar at 20-22 Victoria Street, Bunbury on Friday and Saturday to 2.00am the following morning on a permanent basis

Background

Council's original Decision (No. 180/00) made on 20 June 2000, was to refuse to grant planning approval for establishment of an Irish bar on the site for the following reasons:

- a) The effect on the general amenity of the area.
- b) The heritage status of the building would be affected.
- c) Anticipated increases in noise and safety hazard levels.

The Council's decision was later subject to an appeal to the Town Planning Appeals Tribunal. A copy of the Tribunal's final determination in January 2001 is **attached** at Appendix 4.

At the Council Meeting on 19 March 2002, the proponent requested that the City allow the opening of the facility courtyard until 12.00 midnight each night. Council decided to support this proposition. Council's decision reads as follows:

Council Decision 56/02 - 19 March 2002

Council, pursuant to Clause (l) of the Planning Approval (dated 22 January 2001) granted to Mr K Fitzgerald, in respect of Fitzgerald's Irish Bar at 20-22 Victoria St Bunbury, approves the extension of trading hours in the front courtyard until 12 midnight on any day and subject to the following conditions:

- 1. Such approval is for a trial period of twelve months from the date of the commencement of the approval and that it is incumbent on the applicant to re-apply to the City to formalise this approval for an unlimited period so long as during the trial period no significant policing and/or other issues result which would compromise the established level of amenity in the immediate vicinity of the facility.*
- 2. All conditions of the original grant of town planning approval remain unaltered.*
- 3. All music is to cease at 10.00 pm in the front beer garden.*

Subsequently this approval lapsed and the applicant applied to reinstate this approval and to extend the period of operation to 2.00am two nights per week over a specified period of the year. Council subsequently determined (refer Council Decision 170/04 made 6 July 2004) to grant planning approval in this regard and the relevant decision is as follows:

Council Decision 170/04 - 6 July 2004

Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 (as amended) hereby resolves:

- 1. Subject to compliance with the provisions of the Health Act 1911 and Environmental Protection (Noise) Regulations 1997, to support the proposition by PDR Pty Ltd and Compagnone Family Trust, in terms of extending the current opening times of the front courtyard of Fitzgerald's Irish Bar, 20-22 Victoria St., Bunbury, from 10.00pm on Friday and Saturday to 2.00am the following morning for an initial trial period from 1 October 2004 until 1 May 2005; and*
- 2. The proponent be advised that following the initial trial period it will be necessary to re-apply to Council to seek permanent arrangements in this regard.*

In terms of background it should also be noted that Council granted its approval (Council Decision 287/02 - 22 October 2002) to allow the bar to open on Sundays from 3.00pm in the afternoon.

A further application was received to extend the operating hours of the front courtyard to 2.00am on a permanent basis and on 28 June 2005 Council resolved as follows:

Council Decision 141/05 - 28 June 2005

Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 (as amended) hereby resolves to support the proposition by PDR Pty Ltd, in terms of extending the current opening times to the front courtyard of Fitzgerald's Irish Bar, 20-22 Victoria Street, Bunbury from 10.00pm on Friday and Saturday to 2.00am subject to compliance with the provisions of the Health Act 1911 and Environmental Protection (Noise) Regulations 1997.

A copy of the Liquor Licence and the Extended Trading Permit No 26863 applicable to the premises, is **attached** at Appendix 5 for information.

Proposal

The proposal is to indefinitely extend the trading hours in the street-side courtyard of Fitzgerald's Irish Bar until 4.00am on Friday and Saturday evenings.

The land is zoned "City Centre" in the current Town Planning Scheme. The facility operates principally as a Tavern under the provisions of the current Town Planning Scheme. The use-class 'tavern' is a 'P' (permitted) use.

Mr Glen Fitzgerald, the Manager of Fitzgerald's Irish Bar, has written to Council as follows:

"Subject: Application to indefinitely extend the trading hours of the courtyard situated at Fitzgerald's Irish Bar 20-22 Victoria St. Bunbury. Fitzgerald's Irish Bar wishes to make application to extend the trading hours in the street side courtyard until 4 am on Friday and Saturday evening all year.

Since Fitzgerald's Irish Bar commenced trading on December 21st 2001, the venue has been immensely popular with all age groups. Problems and complaints arise when patrons are asked to vacate the courtyard to be relocated inside the venue at 2.00am. The patrons could not comprehend why they could not continue to sit in the courtyard.

In 2005, the Council approved the decision to extend the trading hours in the courtyard until 2.00am. Fitzgerald's Irish Bar has complied with the special trading condition in relation to the street side courtyard set down by the City of Bunbury

To my knowledge there continues to be no complaints reported to the Bunbury Police, Liquor Licensing Division or the City of Bunbury in relation to any noise emissions or anti social behaviour committed in the street side courtyard during trading hours.

P.D.R. Pty Ltd wishes to make application to extend the trading hours in the street side courtyard until 4.00am on Friday and Saturday evenings all year. This request is to cater for the overwhelming demand for patrons to be able to sit outside during the warmer months and the inception of the new smoking regulations introduced in 2006.

Fitzgerald's is a unique style licensed venue. It has the only alfresco style licensed street side courtyard in the Bunbury C.B.D. The venue is popular with all age groups and is the market leader in evening entertainment. In the past few months, the popularity of Fitzgerald's has increased and we find queues are forming outside the front perimeter wall from 10.00pm Fridays and Saturdays.

As previously stated in other applications, there are several licensed venues in the Perth metropolitan area that have courtyards attached and operate until the closing time of the venues. These areas are popular tourist destinations and are densely populated all year.

Two crowd controllers are always present in the courtyard whilst it is in operation. The patrons are normally seated on bench seats and the noise is kept to a talking level. The courtyard is floodlit along with the adjacent public car park.

Currently, the piped music is switched off in the courtyard at 10.00pm and we don't wish to alter this condition. We have found that a majority of patrons have complained when told to move inside the venue at 2.00am. The patrons can't understand why they have to go indoors when it is perfect weather outside to be seated in the courtyard. Many of the patrons are taking the opportunity to smoke in the open air due to the change in the new smoking regulations."

It is considered that the proposition by Fitzgerald's Irish Tavern could be supported on the following basis:

- The City is not aware of any problems, under the provisions of the Health Act and Regulations, with the operation of the courtyard at the facility to date. The last night-time inspection of the premises was carried out by Environmental Health staff on 23 November 2007. Only minor issues have been raised on previous inspections.
- The development is essentially in compliance with the current Town Planning approval (reference the Tribunal decision dated 19 January 2001) in that such approval did not exclude consideration of the subject proposal but simply limited such consideration to be to the determination of Council.
- The request represents an additional 2 hours from that which was previously approved by Council at its meeting on 28 June 2005 (i.e. until 2.00am).
- Music will not be permitted beyond 10.00pm per the previous Tribunal determination.

Broadly speaking, the proposition to extend the opening hours of the facility would, in the long term, tend to contribute to bringing further economic benefits to the City in terms of making the City more attractive to a larger spectrum of people, thereby consolidating the City's population base. Furthermore, by broadening the City's attractiveness to tourists, this should lead to further settlement and investment in the City and contribute to further growth of the population base.

Strategic Outcomes

It is considered that the broad direction of the 2007-2012 Strategic Plan would not be compromised by supporting the proposal.

Community Consultation

It is considered that public advertising is not required in this instance as the base development (tavern) is a permitted use in the respective zone (City Centre). However, the Liquor Licensing Board may require advertising of the proposal to obtain community input notwithstanding that it has discretion not to require advertising should it determine that it is not of sufficient public interest.

The Police and *Population Health* have been advised of the application and comment has been received from the Police as follows: *"Bunbury Police do not support this application as we have had numerous jobs involving anti-social behaviour and assaults at Fitzgeralds in the last 6 months. We are also having numerous complaints about the queue outside Fitzgeralds with patrons acting disorderly and street drinking."*

Councillor/Officer Consultation

The matter has been broadly canvassed at staff level with a view to gaining maximum input in the decision-making process.

Analysis of Financial and Budget Implications

Currently there are no known adverse financial/Municipal Budget implications

Economic, Social, Environmental and Heritage Issues

There are no known environmental or heritage issues relating to the proposed development.

Employment outcomes would be positive should Council determine to support the proposal. Arguably the facility with its specific Irish theme, ably complements the current range of drinking establishments in Bunbury and its region. It is considered that with support for the proposal, the economic base of the City and its region would be strengthened by the further underpinning of job opportunities.

Council Policy Compliance

It is considered that the officer's recommendation in this report does not contravene any known operable Council policy.

Legislative Compliance

Legislative requirements relating to the Local Government Act 1995 or any other Act, Local Law, or Regulations have been complied with in the processes leading up to the finalisation of this report.

Delegation of Authority

Delegation of the power to approve this application is not an option in this instance as outlined above.

Relevant Precedents

Similar developments in the City include the Reef Tavern and the Parade Hotel. Comparable restaurants in the City include licensed cafes such as Henry's and Mojo's.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Should Council determine not to support the proposal the following is a possible format for such action.

"Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 2005 hereby resolves not to support the proposition by Mr Glen Fitzgerald of PDR Pty Ltd, in extending the current opening times of Fitzgerald's Irish Bar, 20-22 Victoria Street, Bunbury, on Fridays and Saturdays until 4.00am on the following morning, due to:

- 1. The general amenity of the area would, in Council's view, be adversely affected;*
- 2. The area would be adversely affected because of the anticipated increased noise and safety hazard levels."*

Conclusion

On balance it is considered that the proposition by Fitzgerald's Irish Tavern should be supported principally on the basis of the relatively limited effect the development would have in the surrounding area and having regard to the perceived benefits to the City in terms of broadening its social base.

11 December 2007
Minutes - Council Committee Meeting

In light of the comments by Bunbury Police about anti-social behaviour, there will be an opportunity to address this issue in the application process for an Extended Trading Permit by Liquor Licensing and also at the end of any trial period, if adopted

Recommendation

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

1. Subject to compliance with the provisions of the Health Act 1911 and Environmental Protection (Noise) Regulations 1997, to support the proposition by PDR Pty Ltd and Compagnone Family Trust, in terms of extending the current opening times of the front courtyard of Fitzgerald's Irish Bar, 20-22 Victoria Street, Bunbury, on Friday and Saturday to 4.00am the following morning, for an initial trial period until 1 May 2008.
2. The proponent to be advised that following the initial trial period it will be necessary for him to re-apply to Council to seek permanent arrangements in this regard
3. All music is to cease at 10.00pm in the front courtyard.

Outcome of the Council Committee Meeting - 11 December 2007

The City's Manager of Health read aloud a letter received from *Population Health* before responding to questions from committee members.

Mr Glen Fitzgerald (applicant) advised that there have been no complaints to Police concerning behaviour of patrons inside the courtyard area at Fitzgeralds Irish Bar - only unruly behaviour in the queue on the pavement outside the venue. He has implemented additional crowd control measures recently that should help counter this (he has 2 security guards on the door and 1 in the courtyard to watch for fence-hoppers). No music is actually played in the courtyard so most of the patrons sitting there are from an older demographic or groups of people wanting to sit down and talk. Any incident where a patron is injured is recorded as this is a requirement of the Law. The premises have CCTV and this is likely to be increased in the near future.

The recommendation was moved Cr Craddock, seconded Cr Dillon. The Presiding Member put the motion to the vote and it was carried 10 votes "for" to 2 votes "against" to become the Committee's recommendation on this issue.

Committee Recommendation

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

- 1. Subject to compliance with the provisions of the Health Act 1911 and Environmental Protection (Noise) Regulations 1997, to support the proposition by PDR Pty Ltd and Compagnone Family Trust, in terms of extending the current opening times of the front courtyard of Fitzgerald's Irish Bar, 20-22 Victoria Street, Bunbury, on Friday and Saturday to 4.00am the following morning, for an initial trial period until 1 May 2008.*
- 2. The proponent to be advised that following the initial trial period it will be necessary for him to re-apply to Council to seek permanent arrangements in this regard*
- 3. All music is to cease at 10.00pm in the front courtyard.*

11.5 PROPOSED 4-LEVEL OFFICE BUILDING AT LOT 3 (NO. 17) STIRLING STREET, BUNBURY (WAS LISTED AS ITEM 11.9 ON THE MEETING AGENDA)

File Ref:	P09089
Applicant/Proponent:	Rob Nicholson, Architect (D & M Amonini Pty Ltd)
Author:	Kevin Townroe, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has received a development application from D and M Amonini Pty Ltd for the construction of a 4-level office building on former tennis courts on Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan P2388) which is subject of Assessment No. 17077. The proposed building would have a maximum height of 17 metres and a gross floor area (excluding common areas, lift shafts, etc.) of 1,911m². In accordance with Table No. 2 of Town Planning Scheme No. 7 ("TPS.7") the proposed development requires 39 car parking spaces. The proposal makes provision for 18 car parking bays at ground floor level leaving a shortfall of 21 car parking bays.

Background

Council will recall Decision No. 134/07 made at its meeting on 3 July 2007 regarding car-parking requirements in the CBD that states: *'Prior to the final adoption of a new Local Planning Policy for the CBD, the Council shall exercise full discretion for approval on all Development Applications requiring parking provision on a case-by-case basis'*.

The City has reached a crossroads, so to speak, in its history in terms of development expansion and multi-level developments, which is an area likely to experience continued and significant growth. The proposed development would be significantly short of the City's car parking requirements, and given that the development proposed is totally new construction on a vacant piece of land, consideration must be given to the possible impact that this development would have in terms of car parking and traffic management issues arising from it. This report has therefore been prepared for Council consideration in light of the parking shortfall.

Attached at Appendix 9 is an aerial photo of the site.

Proposal

The proposal is for the construction of an office building comprising 4 levels with an architectural modern frontage facing onto Stirling Street with materials primarily of frameless glass, granite and aluminium cladding. The ground floor is proposed to consist of the main entrance/foyer and two office tenancies fronting onto Stirling Street with the provision of car parking accessed from the rear minor road. Floors 1-3 are also proposed to consist of office tenancies.

Land Use

The site is located within the City Centre zone whereby 'Office' is a 'P' use in accordance with Table No.1 – Zoning Table, (Town Planning Scheme No. 7). One of the objectives of the City of Bunbury in respect of the 'City Centre' zone is to promote a broad range of compatible uses that are appropriate to the functioning of the 'City Centre'. However, it is considered that any new developments within the City Centre should be sustainable. The proposal would create an inadequate and unsustainable situation in terms of car parking within the City Centre adding unreasonable pressure upon existing premium parking within the City Centre.

The current Town Planning Scheme (TPS7) states that: *"No person is to develop any land for a use or purpose specified in Table 2 otherwise than in accordance with the relevant standards contained therein (Town Planning Scheme No.7, Part 5.7.1.2)."* In this case the development application is not in accordance with the relevant standards and is some 53% (21 bays) short of this required standard.

TPS7 goes on to state: *"Where the number of car parking spaces proposed to be provided on land, or in a building, the subject of an application for planning approval is less than the number required under Table 2, the local government may approve the application if the applicant can demonstrate to the satisfaction of the Local Government that: (a) off street parking facilities in the near vicinity are adequate to cater for the parking requirements of the land use and/or development; and, (b) arrangement to the satisfaction of the local government have been made to enable those facilities to be used for that purpose on an on-going basis"*. The applicant has not submitted any documentation to support any deficit in car parking requirements in this instance. The applicant however does refer to TPS 7, Part 5, 5.7.1.9 which states: *"car parking spaces associated with developments of up to 2,000m² gross floor area may not be required"*.

It is considered that the City of Bunbury has reached a crossroads in its development history and while recognising the positive contribution that the proposed development would have on the City, the wider issues of traffic management and car parking must take precedent, otherwise, the City would develop with an inherent lack of car parking adversely impacting on the economical integrity and long term objectives of the City.

Strategic and/or Regional Outcomes

The proposed development is considered to adhere to the primary objectives of the City of Bunbury Strategic Plan 2007-2012 (Section 5.3) which advocates a cohesive system of integrated land use planning.

The officer's recommendation has had regard to Council's 2007-2012 Strategic Plan.

Community Consultation

Community consultation is not specifically relevant in this instance.

Councillor/Officer Consultation

Discussions have been undertaken with relevant officers in the Development Services Division in the preparation of this report.

Analysis of Financial and Budget Implications

The officer's recommendation will not impact on the existing Annual Budget nor are there any expenses associated with the proposal from a Council perspective.

Relevant Precedents

The Council will recall its decision (No. 212/07) for a proposed 14-storey mixed use residential, retail and commercial development on the former Reef Hotel site at Lot 34 (No. 12) Victoria Street, Bunbury, whereby the full car parking requirements of TPS 7 are to be provided.

Economic, Social, Environmental and Heritage Issues

The site is located within the primary 'City Centre' area and is currently vacant land. The site forms an integral part of the City Centre and an Office proposal would complement the demand for City Centre Office space, and would promote an additional and convenient office facility that would contribute to the vibrancy and core functions of the Central Business District.

There are no known environmental and/or heritage issues relating to this proposal.

Council Policy Compliance

The development application is not in accordance with Local Planning Policy – Parking Strategy, 2.4.2, Appendix 1, in that the applicant has failed to demonstrate that public/private off-street parking facilities in an appropriate area, within 400 metres (Policy 5.4, Appendix 1, Appropriate Area, 'a') would be available to cater for the parking requirements of the land and that arrangements to the satisfaction of the Council have been made to enable those facilities to be used for that purpose.

Legislative Compliance

The proposal is clearly consistent with the City Zoning requirements. However, Town Planning Scheme No. 7 makes clear the requirement for car parking and the car parking deficit in this instance is relatively significant. Where there is a marginal or negligible shortfall in parking provision Council has discretion to vary. However, it is considered that in this instance the parking shortfall is neither marginal nor negligible and warrants refusal.

Delegation of Authority

Council has recently resolved to determine all development approvals in relation to parking provision in the CBD.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Approve the proposal (with a significant deficit in car parking provision) based on conditions as **attached** at Appendix 10. The conditions in the attachment are grouped under the following headings:

Use and Development
Landscaping Requirements
Drainage and Road Requirements
Health Requirements
Building Requirements
Guidance Notes

Option 2 is not recommended by Planning Officers but should the Council decide that it would prefer this option, the wording of the decision should read:

"Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) without the requirement to provide on-site car parking for the 21-bay shortfall subject to the conditions as specified in Option 2."

Option 3 - Cash in Lieu

It is noted that Council is not necessarily bound by any policy (Clause 5.7.1.10 of the current Town Planning Scheme). On that basis, Council could if it so wished allow cash-in-lieu to be paid to compensate for the considered shortfall in car-parking. It is noted that the development is on a vacant piece of land with no existing structures, and in such cases Development Services considers that the entire car-parking complement should be provided in accordance with Scheme requirements relative to any proposed land-use. If the Council approved the cash-in-lieu option, a number of conditions would apply and these are **attached** at Appendix 11. The conditions in the attachment are grouped under the following headings:

Use and Development
Landscaping Requirements

Drainage & Road Requirements
Health Requirements
Building Requirements
Guidance Notes

Option 3 is not recommended by Planning Officers but should the Council decide that it would prefer this option, the wording of the decision should read:

"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to grant conditional planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) on the basis that \$525,000 (being 21 bays at \$25,000 per bay) be submitted to the City of Bunbury prior to any commencement of development activity and subject to the conditions as specified in Option 3."

Conclusion

The Development Services Division is of the view that a refusal of planning permission would be in order in this instance. The design of the proposed development is acceptable and the office space proposed would contribute to the vitality and future direction of the City. However, it is considered that the City of Bunbury has reached a crossroads in its development history and whilst recognising the positive contribution that the proposed development would have on the City, the wider issues of traffic management and car parking must take precedence to avoid adverse impacts upon the City's traffic infrastructure by virtue of ongoing lack of parking provision by developers.

The proposal would contribute to the creation of an inadequate supply of car parking within the City Centre adding unreasonable pressure upon existing premium parking. TPS 7 states that no person is to develop any land for a use or purpose specified in Table 2 other than in accordance with the relevant standards contained therein (Town Planning Scheme No.7, Part 5.7.1.2) and in this case the development application is not in accordance with the relevant standards and is some 53% (21 bays) short of this required standard.

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 to grant planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) as the proposed development provides less than the required number of parking bays for the proposed office use under City of Bunbury Town Planning Scheme No. 7.

Outcome of the Council Committee Meeting - 11 December 2007

Cr Stephen Craddock disclosed an impartiality interest as his parents own property nearby and he is a member of a Club that owns an adjacent property. He elected to remain at the meeting and to take part in the discussion and the vote on this item.

The following public speakers addressed the committee:

- Mr Rob Nicholson (Architect)
- Mr David Amonini (Applicant)
- Mr Joe Scurria (legal representative for Mr Amonini)

Collectively, the public speakers claim that Town Planning Scheme No. 7 (Clause 5.7.1.9) deals specifically with parking in the City Centre while Table No. 2 (with which they are being asked to comply) deals with parking in Bunbury in general. They claim that Clause 5.7.1.9 should absolve the applicant from the requirement to provide additional parking bays as the proposed development will be less than 2,000 sq.m in size and they claim that this is backed up by a statement in a report to Council on 28 August 2007 titled "CBD Parking Strategy".

The speakers claimed that the ground floor is already dedicated to parking and a lift-lobby and the only way to increase the number of parking bays on such a small site (730 sq.m) would be to have parking on another of the floors. However, this would be an inefficient use of space due to the need to provide room for turning-circles and ramps and would make the development financially non-viable.

Mr Nicholson indicated that it would be unfair to impose strict parking sanctions on Mr Amonini when many other buildings located in the CBD would fail to conform to current parking requirements. Putting parking bays underneath buildings in the Bunbury CBD is not an option as the CBD area is situated on a basalt-loam base with a high water table.

The Executive Manager of City Development responded to queries from committee members concerning the Town Planning Scheme and the CBD Parking Strategy adopted by Council on 28 August 2007.

Cr Slater moved, Cr Dillon seconded Option 2 but with an amendment so that Option 2 reads:

"Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) with the requirement to provide on-site car parking of 18 bays subject to the conditions as specified for Option 2."

Following lengthy discussion of the motion (Option 2 - as amended), Cr Craddock moved and Cr Major seconded **procedural motion** 14.1(i) *"That the motion lie on the table"*. The Presiding Member put the motion to the vote and it was defeated 5 votes "for" to 7 votes "against".

Discussion of the motion (**Option 2 - as amended**) ensued following which the Presiding Member put it to the vote and it was defeated 5 votes "for" to 7 votes "against". Votes were recorded as follows:

For: Crs Jones, Dillon, Punch, Slater and Steck

Against: Mayor D Smith; Crs Craddock, Rooney, Worthington, Kelly, Major and Whittle

Cr Major moved, Cr Kelly seconded the **recommendation** (as printed). The Presiding Member put the motion to the vote and it was defeated 3 votes "for" to 9 votes "against". The votes were recorded as follows:

For: Crs Worthington, Kelly and Major.

Against: Mayor D Smith; Crs Craddock, Jones, Dillon, Rooney, Punch, Whittle, Slater and Steck

In further discussion, the applicant confirmed that he is reluctant to pay cash-in-lieu as he does not believe he should have to provide extra parking for a development of this size.

As a possible compromise, Cr Craddock moved, Cr Whittle seconded Option 3 (with an amendment reducing the concession threshold to 500 sq.m) as follows:

"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to grant conditional planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) on the basis of a concession being offered for the first 500 sq.m and payment in lieu of \$250,000 for the shortfall being submitted to the City of Bunbury prior to commencement of development activity and subject to the conditions as specified for Option 3."

11 December 2007
Minutes - Council Committee Meeting

Discussion ensued in relation to the motion (Option 3 - as amended) wherein it was determined that the cost per parking bay would be set at \$25,000.

At this point in proceedings Cr Dillon moved, Cr Steck seconded **procedural motion** 14.1(d) "*That the motion be now put*". The procedural motion was carried 7 votes "for" to 5 votes "against".

The Presiding Member put the motion moved Cr Craddock, seconded Cr Whittle (**Option 3 - as amended**) to the vote. There was an equality of votes (6 votes "for" to 6 votes "against"). The Presiding Member used his casting vote to vote "for" the motion and it was adopted to become the Committee's recommendation on this issue.

Committee Recommendation

*Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to **grant** conditional planning approval to D & M Amonini for the construction of a 4-level office building at Lot 3 (No. 17) Stirling Street, Bunbury (Deposited Plan: P2388) on the basis of a concession being offered for the first 500 sq.m and payment in lieu of \$250,000 for the shortfall being submitted to the City of Bunbury prior to commencement of development activity and subject to the conditions as specified for Option 3.*

11.6 GLEN IRIS/MOORLANDS LOCAL AREA PLAN STUDY

File Ref:	A00876
Applicant/Proponent:	Internal Report
Author:	Kelvin Storey, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City of Bunbury, with the assistance of consultancies Hassell and Creating Communities, has undertaken the preparation of a Local Area Plan ("LAP") for the neighbourhood incorporating Glen Iris, Moorlands and Nenke Way, Bunbury.

The 'Glen Iris – Moorlands Local Area Plan: Study' represents the first element (Part 1) of the Local Area Plan. Subsequent elements, primarily in the form of a Local Planning Policy and Scheme Amendments are being finalised and will be rolled out at the start of 2008. Significantly in this instance, this document includes the proposed Local Area Plan Map as well as a plan showing indicative road layout options for Nenke Way. Releasing this now will have the advantage of allowing early public viewing of draft plans and enable informed discussion to occur prior to the initiation of formal consultation processes associated with the up-coming Local Planning Policy and Scheme Amendments (Parts 2 and 3).

Whilst there is no statutory obligation to release the document individually at this time, it is considered of benefit to the overall public consultation process, and for this reason it is recommended that Council resolve to note the 'The Glen Iris – Moorlands Local Area Plan: Study' and allow its disclosure as a document available to the public for viewing and information purposes.

Background

At its ordinary meeting of 6 September 2005, Council resolved to prepare a revised plan for the Glen Iris and Moorlands local area (Council Decision No. 206/05). The principal reasons for preparing a Local Area Plan (LAP) were as follows:

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

The LAP project has been progressed through community consultation with landowners and residents, which has sought to identify the core matters and define their vision for the Glen Iris–Moorlands. The drafting of the LAP has also been informed by past structure planning exercises, environmental (flood) management studies, State Government infrastructure planning initiatives and landowner submissions and subdivision proposals.

Proposal

‘The Glen Iris – Moorlands Local Area Plan: Study’ is presented to Council (under separate cover), and Council are requested to allow its disclosure as a publicly available document. This document details information and analysis about the local area based on a triple-bottom-line methodology according to but not limited by the following:

- Local vision statement and sustainable development principles derived through community participation, which describe the desired environmental & developmental outcomes.
- Regional & local context and profile (socio-economic, natural & built environmental conditions, governance, demographics, etc) addressing key issues & emerging trends by the Local Sustainability Framework.
- Literature review of previous studies and plans.
- Identification of constraint and opportunities (SWOT) mapping.
- Analysis of core matters and valuable features
- Images and concept designs for desired, built form, landscape and urban design.
- Recommendations & justifications.

The ‘Glen Iris – Moorlands Local Area Plan: Study’ includes as Figure 4.1 the proposed Local Area Plan Map that will form an integral component of the Local Planning Policy (Part 2), and indicative road layout options for Nenke Way (Appendix 3 of the document). Disclosing the Part 1 document at this time will have the advantage of allowing early public viewing of the above draft plans and enable informed discussion to occur (over the Christmas and New Year period). Formal consultation processes will then take place following Council’s initiation of the forthcoming Local Planning Policy and Scheme Amendments (Parts 2 and 3).

Strategic and/or Regional Outcomes

The LAP project is considered consistent with the aims and goals of Council’s 2007–2012 Strategic Plan and the City Vision Strategy 2007.

Community Consultation

A Community Consultation Report (Appendix 2 of the Study document) was prepared in December 2005 which outlines the combination of methods, messages and approaches used in order to inform the community about the project, gain input and build community ownership into the final plans. Community engagement activities included:

- Newsletters;
- Letter to Residents;
- Public notice advertisement;
- Press Release;
- Open days (in Forum Shopping Centre);
- One-on-one meetings;
- Infoline (telephone); and
- Website (email).

In addition to the initial community consultation process, the project has involved two agency workshops, agency staff interviews and over 10 Project Control Group (PCG) meetings.

Councillor/Officer Consultation

Current councillors on the Greater Glen Iris/Moorlands Project Control Group are His Worship the Mayor - Mr David Smith; and, Councillors Dillon and Leigh. The Executive Manager City Development has also been integral to the operation of the Project Control Group. Council briefing sessions previously took place in February and March 2006.

The Local Area Plan project has also been discussed amongst both the Strategic and Statutory Planning staff.

Analysis of Financial and Budget Implications

The proposal has no known impact on the existing Annual Budget nor are there any expenses associated with the recommendation from a Council perspective.

Economic, Social, Environmental and Heritage Issues

The proposal and officer's recommendation contained within this report has no impact on economic, social, environmental or heritage issues.

Legislative and Council Policy Compliance

No conflict identified.

Delegation of Authority

No relevant delegation of authority in respect of this proposal

Relevant Precedents

No known relevant precedents in respect of this proposal

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Council notes the 'Glen Iris – Moorlands Local Area Plan: Study' but does not authorise its disclosure to the public for viewing and information purposes at this point in time.

Conclusion

This report is presented to Council to seek endorsement of the recommendation to disclose the 'Glen Iris – Moorlands Local Area Plan: Study' (Part 1), thus enabling public viewing and its availability for information purposes prior to initiation of formal consultation processes that will be associated with the forthcoming Local Planning Policy and Scheme Amendments (Parts 2 and 3).

Recommendation

Council notes the '*Glen Iris – Moorlands Local Area Plan: Study*' and authorises its disclosure to the public for viewing and information purposes.

Outcome of the Council Committee Meeting - 11 December 2007

The Senior Planner (Strategic & Environment) referred committee members to page 8 of the "Glen Iris - Moorlands Local Area Plan: Study" which outlines the rollout process for the project. He indicated that there is no statutory advertising limit because the document is not a statutory document.

The recommendation was moved Cr Major, seconded Cr Craddock. The Presiding Member put the motion to the vote and it was carried unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

Council notes the 'Glen Iris – Moorlands Local Area Plan: Study' and authorises its disclosure to the public for viewing and information purposes.

11.7 PROPOSED CHANGE OF USE TO "SHOWROOM & MUSIC TUITION" - LOT 1 (NO. 100) SPENCER STREET, BUNBURY *(WAS LISTED AS ITEM 11.8 ON THE MEETING AGENDA)*

File Ref:	P08635
Applicant/Proponent:	Mr P G Ceccato
Author:	Kevin Townroe, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has received a change of use application in respect of Lot 1 (No. 100) Spencer Street, Bunbury. The applicant has occupied the premises and is operating as 'Vibrations Music'; therefore this is a development application whereby the applicant is seeking retrospective planning approval.

The use 'showroom' is the primary intended use of the site with a small proportion of the floor space dedicated to out-of-hour's music tuition. In terms of compliance with the Scheme ("TPS 7") the proposal has been assessed and is generally in accordance with the Scheme with the exception of the car parking requirements of Table No. 2 of TPS 7. The proposed use, officially, attracts 10 car parking spaces. The primary business activity (showroom) would be used predominantly during normal daytime hours. The existing building occupies 100% of the lot thus the inherent lack of parking provision remains attributed to the site.

Prior to 'Vibrations Music' moving into the premises the building was used primarily as an 'office' for a number of years. On that basis, it could be argued that the previous use (office) was a more intense use (in terms of car parking demand) by comparison with the 'Showroom' use pertinent to this planning application. Furthermore, 708m² gross floor area for an 'Office' use would attract a requirement for 14 car parking spaces (TPS 7, Part 5, Table 2 – Car Parking Guidelines). In addition, given the apparent past history of the site as a theatre/hall, such a use would have generated a much greater car-parking requirement comparatively speaking under TPS 7. The parking requirement under the same table for a 'Showroom' use is 10 car parking spaces, theoretically leaving a credit of 4 car parking spaces. It is considered therefore that it may be unreasonable to refuse this application on parking grounds given its 'existing' status and past history.

It is considered that the operation of the music business would require a safe loading bay/area for moving bulky goods in and out of the premises. There is an existing goods entrance to the northern side of the existing building that opens onto Bolton Street that is a minor road. In consultation with the City's engineering department, conditions would be applied to any approval that would restrict delivery times and vehicle size for such deliveries with the view of avoiding any conflict between any traffic using Bolton Street and any off-loading operations.

The applicant has stated *“As for the loading and unloading of bulky goods, you may be aware these premises were once used as a wholesale distributor which had a constant flow of large vehicles and trucks on a daily basis. Our business uses predominantly light couriers which access a side entrance loading area on Bolton Street, a minor side road. We also on occasions take delivery of pianos which are delivered to this side entrance. This on average would occur once every 3 months with no more than 2 pianos being delivered at any one time. The pianos are delivered and/or collected with a 6 x 4 trailer which takes approximately 9 minutes to unload”*. It is recommended that for road safety, conditions be included as part of the planning approval consistent with the City Engineer's advice, restricting delivery times, delivery vehicle size, and deliveries to side entrance only.

Background

Prior to the current (retrospective) development application the building was (apparently) used as offices with the rear part of the building being used as a Martial Arts studio but following a search of the City's planning records, there is no planning approval for that use. The applicants have stated that the *“previous tenants of 100 Spencer Street, Needac Ltd had 7 full time employees and operated a ‘work for the dole’ scheme and Aboriginal resource centre from 1999 with the rear of the building sublet to a martial arts instructor who conducted classes several days a week...amounting to a high turnover of staff/customers when compared to the new (retrospective) use”*

For clarity, “Showroom” means: *“premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature”* (TPS 7, Schedule 1). During a recent site visit it was noted that approximately 50% of the showroom floor area was taken up by bulky goods i.e. pianos, speakers, amplifiers etc. The music ‘showroom’ employs 2 full time staff and 3 part time casual staff; the applicants have stated *“at any one time, we do not have more than 3 staff on site”*. It is noted that there is a small amount of music tuition. The applicant was asked to expand on numbers of out-of-hour's tuition and has stated that they can, and do, only accommodate tuition 3 nights of the week: 3 tutors on a one to one basis normally with young students dropped off by parents.

Although the site lies outside the CBD, it is considered that any parking anomalies that conflict with the requirement of the Town Planning Scheme requires a report to be prepared for Council consideration, as it requires Council discretionary approval in respect of car parking.

Attached at Appendix 7 is an aerial photo of the site.

Proposal

The proposal is for a change of use in respect of the existing building. The proprietors of the site have put the 'showroom' use into operation ahead of a development application on the basis that the building was purchased on the understanding that the zoning was mixed use that covers the criteria for the business they wished to operate (this is contained in the applicant's justification letter dated 9 November 2007). The 'showroom' use for which planning approval is sought is the primary use displaying a large range of musical instruments and associated accessories. Ancillary to the main use are two small rooms that are to be used for music tuition predominantly out of normal hours. There is no planning history for the site and hence no actual record for the most recent use as office/martial arts studio.

Land Use

One of the objectives of the City of Bunbury in respect of the 'Mixed Business' zone is to provide for a wide range of light and service industry, storage, wholesaling, showrooms, trade and professional services and a limited range of other mixed business uses which, by reason of their scale, character, operational or land requirements, are not generally appropriate to be accommodated within the City Centre, Shopping Centre or Industry zones.

It is understood that the building was originally used as a local theatre during the early part of the Century; the external structure has remained pretty much as original; car parking has never been provided in more recent times and consideration should ideally be given to the fact that one is dealing with an existing structure with 100% site coverage and few feasible options for car parking provision.

It is considered that the use of the land for a 'showroom' satisfies the objective of the 'Mixed Business' zone and on balance it would be unreasonable to refuse the application on car-parking grounds in this instance given that a large proportion of existing businesses within the Mixed Business area would also be unable to fulfil the parking requirements given similar circumstances when undergoing a permitted change of use. In addition, Table 1 (land use matrix) of the Town Planning Scheme No.7 (TPS 7) designates the use class 'Showroom' as a 'P' use (i.e. a use permitted in the 'Mixed Business zone).

Attached at Appendix 8 is a floor plan.

Parking Requirements

Table 2 of TPS 7 provides parking standards for various land uses as identified in the Scheme. For the use class 'Showroom' a developer is required to provide 4 spaces for up to the first 200m² gross floor area, plus 1 space for every additional 100m² or part thereof. Thus the car-parking requirement for this application (site area total 708 m²) is 10 car-parking spaces. The nature of the 'music' showroom may not necessarily give rise to any significant increase in visitors to the site, particularly when viewed against past uses of the building that would have generated a requirement for more car parking spaces than the Showroom use and given that the proposed use of the site for music tuition is ancillary to the predominant use

and in that such ancillary use would occur in the evenings. Given the change of use circumstances, the marginally less intense use, and the fact that the lack of parking at the site is inherent, it is considered that to refuse this application on parking grounds would be unreasonable.

City of Bunbury Policy 5.4 (Bunbury CBD Parking) makes provision for the option of cash-in-lieu contributions for up to 80% of the overall on-site parking requirement. However, officially (i.e. in accordance with Policy), this option only applies to developments with a floor area above 2,000m² and below 3,000m² and where the development is in the City Centre. Clearly this option, relating to Policy 5.4, is therefore not available in this instance in terms of strict interpretation of the relevant policy.

Strategic and/or Regional Outcomes

The proposed development is considered to adhere to the primary objectives of the 'City of Bunbury Strategy Plan 2007-2012 (Section 5.3) which advocates a cohesive system of integrated land use planning.

The officer's recommendation has had regard to Council's 2007-2012 Strategic Plan.

Community Consultation

It is considered that public consultation is not necessary in this instance.

Councillor/Officer Consultation

Discussions have been undertaken with relevant officers within the Development Services Division in the preparation of this report.

Analysis of Financial and Budget Implications

The officer's recommendation will not impact on the existing Annual Budget nor are there any expenses associated with the proposal from a Council perspective.

Economic, Social, Environmental and Heritage Issues

The proposed development would provide economic benefit, however small, to the City and the region. There are no relevant economic, social and/or heritage issues relating to the subject land.

Council Policy Compliance

It is considered that the proposed development does not breach any current Policy of Council

Legislative Compliance

The proposal is consistent with the City Zoning requirements, and Town Planning Scheme No. 7 makes clear the requirement for parking. However, where there is a marginal or negligible shortfall to parking requirements the Council has discretion to vary.

Delegation of Authority

Council has recently resolved to determine all development approvals in relation to parking provision in the CBD. While this application site lies outside the City Centre, it is considered that the parking issues are closely related.

Relevant Precedents

The Council, at its meeting on 28 August 2007, resolved to approve the *'proposed change of use from office to consulting room at Lot 191 (No. 83A) Victoria Street, Bunbury'* which also had a marginal shortfall of car parking spaces within the City Centre Zone and comprised of an existing established building footprint (Council Decision 170/07). This example is provided notwithstanding the fact that the proposed development is located in a different zone to that of the CBD.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Refuse the proposal.

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

"Council, under any and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to refuse to grant Planning Approval to P and V Ceccato for the change of use (retrospective) to 'Showroom' at Lot 1 (No. 100) Spencer Street, Bunbury, by reason of inadequate parking provision relating to the provisions of City of Bunbury Town Planning Scheme No. 7."

Conclusion

After consideration, Development Services Officers are of the view that a grant of planning approval would be in order in this instance. This view is based on the following line of thinking: principally (and importantly) the Council has the power to issue a grant of approval; this power is derived from the fact that the use-class proposed i.e., "Showroom", is a permitted use in the respective zone ("Mixed Business").

In terms of the matter of car parking, whilst the 'retrospective' development may be short of the technical requirement in this instance, in fact Council has the power to grant approval in such an instance in that Clause 5.7.1.10 of TPS 7 permits Council to exercise power to grant approval for commercial developments to the satisfaction of the Local Government. It is considered that this specific clause has been formulated in the current Scheme for this particular purpose – that is, in cases where any development is of such a nature in terms of size and impact, etc., that warrants approval for broader benefits such as commercial synergies and benefiting the "Mixed Business" zone in terms of contributing to its commercial and social vitality, then, Council would have the power to exercise its judgement.

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 grant planning approval to P and V Ceccato for the Change of Use (retrospective) to "Showroom" at Lot 1 (No. 100) Spencer Street, Bunbury, subject to the following conditions:

1. The premises being used only in accordance with the definition of 'Showroom' contained in Schedule 1 of Town Planning Scheme No. 7 unless otherwise approved by Council.
2. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City of Bunbury.
3. All deliveries are to take place between 10:00 and 14:00 hours.
4. All deliveries shall be by a vehicle not exceeding 6.5 metres in length that can be driven on a standard class C licence (Western Australia).
5. There shall not be any motorised unloading devices (i.e., forklifts) on the road reserve during the unloading process.
6. There shall be no deliveries to the Spencer Street entrance of any nature. All deliveries are to be via the Bolton Street loading bay; delivery vehicles shall only park on the southern side of Bolton Street and shall at no time cause obstruction to other road users.
7. The property shall be connected to a Water Corporation sewer.
8. There shall be no music tuition between 08:00 to 17:00 hours, Monday to Friday.
9. Any other standard operational conditions to the satisfaction of the Manager of Development Services.

10. Compliance with the Health (Public Buildings) Regulations 1992 will be required. The building shall not be opened to the public until a Certificate of Approval is issued in accordance with Section 178 of the Health Act 1911.
11. Compliance with Environmental Protection (Noise) Regulations 1997 will be required.
12. Compliance with the Health Act 1911 is required.

Outcome of the Council Committee Meeting - 11 December 2007

Cr Shane Rooney disclosed a financial interest as he owns a property in close proximity. He left the meeting at 11.18pm for the duration of discussion and the vote on this item.

The recommendation (as printed) was moved Cr Major, seconded Cr Dillon. The Presiding Member put the motion to the vote and it was carried unanimously to become the Committee's recommendation on this issue.

Cr Rooney returned to the meeting at 11.20pm.

Committee 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 grant planning approval to P and V Ceccato for the Change of Use (retrospective) to "Showroom" at Lot 1 (No. 100) Spencer Street, Bunbury, subject to the following conditions:

- 1. The premises being used only in accordance with the definition of 'Showroom' contained in Schedule 1 of Town Planning Scheme No. 7 unless otherwise approved by Council.*
- 2. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City of Bunbury.*
- 3. All deliveries are to take place between 10:00 and 14:00 hours.*
- 4. All deliveries shall be by a vehicle not exceeding 6.5 metres in length that can be driven on a standard class C licence (Western Australia).*
- 5. There shall not be any motorised unloading devices (i.e., forklifts) on the road reserve during the unloading process.*
- 6. There shall be no deliveries to the Spencer Street entrance of any nature. All deliveries are to be via the Bolton Street loading bay; delivery vehicles shall only park on the southern side of Bolton Street and shall at no time cause obstruction to other road users.*

7. *The property shall be connected to a Water Corporation sewer.*
8. *There shall be no music tuition between 08:00 to 17:00 hours, Monday to Friday.*
9. *Any other standard operational conditions to the satisfaction of the Manager of Development Services.*
10. *Compliance with the Health (Public Buildings) Regulations 1992 will be required. The building shall not be opened to the public until a Certificate of Approval is issued in accordance with Section 178 of the Health Act 1911.*
11. *Compliance with Environmental Protection (Noise) Regulations 1997 will be required.*
12. *Compliance with the Health Act 1911 is required.*

11.8 PROPOSED LOCAL PLANNING POLICY - OFFICE DEVELOPMENT WITHIN THE MIXED BUSINESS ZONE (WAS LISTED AS ITEM 11.11 ON THE MEETING AGENDA)

File Ref:	A00398
Applicant/Proponent:	Internal Report
Author:	Kelvin Storey, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The proposed policy titled "*Office Development Within the Mixed Business Zone*" was principally initiated in response to mounting pressure (from within the commercial sector) for the City to address the diminishing availability of small and affordable office premises in Bunbury.

Since gazettal of Town Planning Scheme No. 7 ("TPS 7") in 2002, new office development in Bunbury has been restricted to areas zoned 'City Centre' and 'Shopping Centre', and with discretion, additions and modifications to existing offices within the Mixed Business Zone up to a maximum of 200m² of net lettable area ("NLA"). The proposed policy intends, within strict qualifying criteria, to broaden favourable application of the discretion to include the changes of use and new building development of small premises for offices within a defined part of the Strategic Centre Mixed Business Zone. The policy, if adopted, would also potentially encourage the viable re-use and refurbishment of many older buildings, some of which may have become less attractive as residences within an increasingly commercial environment and are otherwise unsuited for conversion to other types of commercial activity. The policy is considered both well targeted and sufficiently restricted to enable new opportunities to occur and re-investment to take place at a scale that will not compete with or seriously threaten the commercial primacy of the CBD.

At a secondary level, the policy also seeks to clarify the application of discretion with regard to offices within the Mixed Business Zone (until such time a new and comprehensive commercial strategy is adopted by the City).

It is recommended that Council resolve to advertise the draft Local Planning Policy '*Office Use within the Mixed Business Zone*' for public comment for a period of 21 days in accordance with Clause 2.3 of City of Bunbury Town Planning Scheme No. 7.

Background

The City of Bunbury Town Planning Scheme No. 7 ("TPS7") was adopted in 2002 and remains the principal instrument by which the City is able to control and influence land development within its boundaries.

The Zoning Table forms a fundamental part of the scheme, and identifies the permissibility of certain uses within a particular zone. The zoning table within TPS7 as it applies to office development is shown below:

<u>Use Class</u>	<u>Zones</u>											
	Residential	City Centre	Shopping Centre	Mixed Business	Industry	Port Industry	Place of Assembly	Education	Service Station	Rural	Special Use	Development (Residential or Industrial)
Office	X	P	P	D	X	X	X	X	X	X	#	*

The table clearly identifies office as a ‘P’ (permitted use) within the City Centre (CBD) Zone and Shopping Centre Zone, whereas within other zones offices are ‘X’ uses (not permitted), with the exception of the Mixed Business Zone which identifies it as a ‘D’ (discretionary use). The ‘D’ use annotation means that the use is not permitted unless the local government has exercised its discretion by granting planning approval, and in this respect will be guided by the Scheme Text and any relevant adopted planning policies.

The bulk of the land zoned mixed business is concentrated within the Strategic Regional Centre adjacent to Spencer/Blair/Strickland Streets and Sandridge Road (refer to Appendix 19 **attached**). The stated objective of the Mixed Business Zone under TPS7 is to provide for a range of development that complements but does not compete directly with the City Centre (or Shopping Centre Zones).

The Mixed Business Zone was a newly defined zone within TPS7 that broadly consisted of the Commercial A and Commercial C zones that previously formed part of TPS6 and within which offices were categorised as a ‘P’ use. The Light Industry Zone of TPS6 was also captured within the new Mixed Business Zone, notably however, within this area, offices were only permissible when they represented an incidental (‘IP’) use. With the underlying intent being to safeguard the primacy of the CBD, there was some deliberation between the State and the City (during the TPS7 gazettal process), as how far to be restrictive in respect of offices within the newly created zone, particularly as some offices were already located within the area. Through the gazettal processes, State Government supported 200m² NLA as the figure to represent the maximum office floor space (per lot) allowable within the Mixed Business Zone, thereby ensuring that the CBD would remain the focus for larger scale businesses (e.g. Regional Head Offices and National Branch Offices).

Since implementing TPS7 in 2002, the City adopted an interpretation (in using the discretion) whereby office use would only be allowed within the Mixed Business Zone where it represented either an ancillary use (up to 20% NLA) or an extension to an authorised existing office use (up to a maximum of 200m²NLA), and that in all other circumstances an office is not to be a permitted use. Whilst the City’s stance to-date of essentially restricting all forms of new office development within the Mixed Business Zone is likely to be delivering some

limited positive impact on the vitality of the CBD, the broad brush approach is arguably also stifling opportunities that would help to strengthen the economic base and vibrancy of Bunbury as a Regional Centre, particularly in the case of smaller office businesses which may be priced out of the limited market or simply unable to secure appropriate premises within the CBD, and consequently seeking premises outside the City altogether (within neighbouring shires).

Faced with this challenge, the City has sought to identify scope within the current Town Planning Scheme to adopt a more accommodating application of the use of discretion (in respect of locating of new office uses within the Mixed Business Zone) whilst retaining sufficient control to ensure the commercial integrity of the CBD is not threatened. The result is a policy that, in addition to office development allowable under the current interpretation, extends discretion to the favourable consideration of new small offices where, on a 'per lot' basis, they would be no greater than either 210m² GFA (gross floor area) or 200m² NLA office floor space. The 210m² GFA derives from up to 200m² NLA being allowed as office floor space (as required under the current Scheme), and 10m² reasonably being associated with essential incidental facilities such as toilets and washrooms.

In terms of spatial extent, the policy is to be confined to that part of the Strategic Centre - Mixed Business Zone roughly bounded by Spencer, Blair and Strickland Streets, and comprises areas formerly zoned as Commercial A and Commercial C. The Policy Area is thus representative of an area historically different in character and function to the much of the rest of the Mixed Business Zone. The precise area is mapped on Appendix A to the proposed policy a copy of which is **attached** at Appendix 20.

The Policy Area is contiguous to the City Centre Zone, linked through strong activity corridors extending along Spencer and Blair Streets, and presently provides a range of services that complement commercial activities of the CBD. Accommodating and supporting a variety of uses and building forms, the Policy Area incorporates several pockets of smaller / older premises which would potentially benefit from the arrival of new opportunities for investment in the form that the policy offers. The proposed policy is particularly aimed at stimulating reinvestment / renewal of existing (and former) single dwellings that may have become less attractive as a living option within the commercial environment, but are well suited to conversion to an office and potentially able to contribute positively to the visual amenity of the local area, and it would be in respect of these types of properties where favourable discretion would be most appropriately applied.

The policy also takes the opportunity to clarify the interpretation of discretion applied under the current scheme and the need (or otherwise) to seek formal planning permission where offices are ancillary / incidental to another use.

Review of the Local Planning Policy Framework is already underway, signalled by the on-going preparation of new draft Local Planning Strategies. It is anticipated that the Local Planning Strategy for Activity Centres and Neighbourhoods will provide a comprehensive evaluation of the local commercial environment and propose a range of new zoning initiatives and follow up policies to address findings and desired outcomes. The proposed policy would necessarily be re-evaluated as part of this process.

Proposal

It is proposed to advertise the proposed policy for public comment for a period of 21 days in accordance with Clause 2.3 of the City of Bunbury Town Planning Scheme No 7. Following expiry of the consultation period, the proposal will be referred back to Council for further consideration.

Strategic and /or Regional Outcomes

The proposed policy is consistent with the recently adopted City of Bunbury Strategic Plan 2007–2012. In furthering the implementation of City Vision (objective 4), the City is currently undertaking a review of the Housing and Commercial Strategies and this opens the way for the preparation and consideration of a range of new land use planning initiatives. The proposed policy is considered complimentary to this process and will be re-validated as part of the preparation of the Local Planning Strategy for Activity Centres and Neighbourhoods.

Community Consultation

The proposed Local Planning Policy will be advertised for public comment in accordance with clause 2.3 of the City of Bunbury Town Planning Scheme No 7.

Councillor/Officer Consultation

This matter has been discussed amongst both the Strategic and Statutory Planning staff as well as with the Executive Manager City Development.

Analysis of Financial and Budget Implications

The officer's recommendation in this report will not impact on the existing Annual Budget, and with the exception of advertising costs, there would not be any expenses associated with the requests from a Council perspective.

Economic, Social, Environmental and Heritage Issues

The proposed planning policy is considered a valuable yet restrained approach to addressing reported shortfalls of small office premises in the City. The policy would create opportunities for a limited break-out office development to occur in certain parts of the Strategic Centre Mixed Business Zone and encourage re-investment in existing properties without seriously prejudicing either the commercial primacy of the CBD or likely outcomes emanating from the future Local Planning Strategy for Activity Centres and Neighbourhoods.

There are no significant heritage issues that would result from this proposal.

Council Policy Compliance

This is a proposed new Local Planning Policy and as such is required for public advertising in accordance with Clause 2.3 of City of Bunbury Town Planning Scheme No 7.

Legislative Compliance

The proposal is in line with the current Scheme requirement.

Delegation of Authority

Adoption of a Local Planning Policy can only be by a formal decision of Council.

Relevant Precedents

There are no known precedents relating to the consideration of this matter.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Council resolves not to proceed with the draft Local Planning Policy titled '*Office Use Within the Mixed Business Zone*'.

Conclusion

It is recommended that Council resolve to advertise the draft Local Planning Policy '*Office Use within the Mixed Business Zone*' for public comment for a period of 21 days in accordance with Clause 2.3 of City of Bunbury Town Planning Scheme No 7.

Recommendation

Council, pursuant to the Planning and Development Act 2005, hereby resolves to:

1. Advertise the draft Local Planning Policy titled '*Office Use Within the Mixed Business Zone*' for public comment for a period of 21 days in accordance with Clause 2.3 of the City of Bunbury Town Planning Scheme No. 7.
2. Subject to no objections being received during the advertising period, Council adopts the policy without modification.

Outcome of the Council Committee Meeting - 11 December 2007

The recommendation was moved Cr Jones, seconded Cr Major with an amendment to change the period of public comment days in point 1. from 21 to 42 days. The Presiding Member put the motion to the vote and it was adopted unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

Council, pursuant to the Planning and Development Act 2005, hereby resolves to:

- 1. Advertise the draft Local Planning Policy titled 'Office Use Within the Mixed Business Zone' for public comment for a period of 42 days in accordance with Clause 2.3 of the City of Bunbury Town Planning Scheme No. 7.***
- 2. Subject to no objections being received during the advertising period, Council adopts the policy without modification.***

11.9 DECEMBER 2007 BUDGET REVIEW *(WAS LISTED AS ITEM 11.3 ON THE MEETING AGENDA)*

File Ref:	A00284
Applicant/Proponent:	Internal Report
Author:	David Harrison, Assistant Accountant
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

Council adopted the 2007/08 Budget on 14 August 2007. The \$59(M) budget comprises \$23(M) capital works, \$2(M) debt reduction and \$34(M) in operating expenditure.

The City of Bunbury reviews its annual budget in December and March each year. The reviews are comprehensive and identify additional expenditures (where unavoidable) and additional income and/or expenditure savings to offset funding requirements.

It is proposed the \$61,533 required to maintain a balanced budget be referred to (and funded in) the March 2008 Budget Review.

Background

The December Budget Review identifies \$724,194 of expenditure for general works, variations and new projects. Funding of \$662,661 inclusive of reduction in expenditures, adjustment of grant funding, additional revenue and reserve funding, has been identified in this review leaving \$61,533 to be funded in the March 2008 Budget Review.

A copy of the December 2007 Budget Review has been issued to members under separate cover

Strategic and/or Regional Outcomes

The proposal complies with the City's Strategic Plan 2007-2012 of providing efficient financial management and accounting services to all strategic directions for the City of Bunbury.

Community Consultation

Not applicable.

Councillor/Officer Consultation

Executives, Managers and Officers with budget responsibility are consulted in the preparation of the Budget Review.

Analysis of Financial and Budget Implications

Budget reviews assist in and form part of the financial management processes within the City of Bunbury. The scope of financial management is to ensure a sufficient cash supply is available to meet expenditure demand. Council's Executive together with Corporate Services staff monitor Council's monthly revenue and expenditure activities and refer any variances requiring remedial action to Council (as required).

Approved budget amendments are recorded in the financial statements to reflect Council's current budget and financial position at all times. It is proposed the \$61,533 required to maintain a balanced budget be referred to (and funded in) the March 2008 Budget Review.

Economic, Social, Environmental and Heritage Issues

This budget review refers the \$61,533 required to maintain a balanced budget to the March 2008 Budget Review.

Council Policy Compliance

The proposal does not contravene any Council Policies or Work Procedures.

Legislative Compliance

The recommendation complies with Section 6.8 of the Local Government Act 1995.

Delegation of Authority

The Chief Executive Officer does not have the delegated authority of the Council to adopt Budget Reviews.

Relevant Precedents

Council reviews its Budget in December and March each year.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Adopt the December 2007 Budget Review for the City of Bunbury (with amendments)

Recommendation

Council adopts the December 2007 Budget Review.

Outcome of the Council Committee Meeting - 11 December 2007

Before the recommendation was moved, Cr Dillon foreshadowed the following motion:

"In the interest of pedestrian safety and the safety of motorists and transport operators, the 2007/08 Budget to include an amount sufficient to cover all costs associated with immediate construction of the following items in Strickland Street:

- a) *Dual-use pathway in Strickland Street with crossover access across Strickland Street to the rear of the Bunbury Forum Shopping Centre.*
- b) *A slip-way/recess for Bunbury City Transit buses on the northern side of Strickland Street."*

The Mayor advised Cr Dillon that this motion is not relevant to the recommendation and will need to be submitted as a separate *Motion on Notice* for a future meeting.

Discussion of the December 2007 Budget Review document ensued.

The Presiding Member requested the Executive to prepare reports concerning the following:

- Pioneer Park Project (to state the reason for the cost and time overrun plus what strategy is in place should the City's application to Lotterywest be unsuccessful).
- Prinsep Street Lighting
- Background information concerning Strickland Street issue raised by Cr Dillon

Following further discussion of the Pioneer Park Project and concerns over the level of public consultation and meetings of the former Project Control Group for that project, it was generally agreed that the City's Manager of Parks & Urban Design is to provide councillors with a report to ensure they are fully aware of the project's history and current status.

Cr Steck foreshadowed a motion that a shower be installed at North Marlston Hill. The Presiding Member advised that this would need to be a separate *Motion on Notice*.

Committee members were reminded that preliminary discussions concerning the 2008/09 Budget will commence early in 2008.

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

The Presiding Member put the motion to the vote and it was adopted 11 votes "for" to 1 vote "against" to become the Committee's recommendation on this issue.

Cr Dillon requested that his vote "against" the motion, be recorded.

Committee Recommendation

Council adopts the December 2007 Budget Review.

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

11.10 PROPOSED COMPULSORY ACQUISITION OF LAND REQUIRED FOR STUART STREET WIDENING *(WAS LISTED AS ITEM 11.12 ON THE MEETING AGENDA)*

File Ref:	R00450
Applicant/Proponent:	Internal Report
Author:	Beatrice Plant, City Engineer
Executive:	Michael Scott, Executive Manager City Services

Summary

At the Council Meeting on 22 May 2007, the Council decided to request the Minister for Lands to compulsorily acquire portion of Lot 88 on Plan 1708 on Deposited Plan 49797 and portion of Lot 89 on Plan 1708 on the Deposited Plan 49798 for the purpose of widening Stuart Street. Since that time, an agreement has been reached with the registered proprietor of Lot 88 on Plan 1708 (this acquisition has subsequently proceeded through the subdivision process with the Western Australian Planning Commission).

Subsequent to Council's decision of 22 May 2007, a request was made to the Minister for Lands for the compulsory acquisition of a portion of Lot 89 on Plan 1708. This is currently being processed but in order to enable its dedication following acquisition, Council must resolve to request the Minister of Lands to dedicate the acquired land in accordance with the requirements of Section 56 of the Land Administration Act 1997 ("LAA").

It is proposed to formally request the Minister for Lands to dedicate Lot 307 on Deposited Plan 49798 as a road in accordance with Section 56 of the Land Administration Act 1997. Refer to Appendix 21 **attached**.

Background

At its meeting on 16 December 2003, the City of Bunbury adopted a document titled *Bunbury Integrated Land Use and Transport Vision 2030* ("BTV2030") to provide direction and guide actions to improve transport in the City for the next thirty years. The BTV2030 is consistent with the City's direction in the Strategic Plan and other reports and was intended to be used by Council when considering planning issues, major projects, policies, engineering works, information, processes and like activities.

In order to promote southern access to the CBD and accommodate future southern expansion of the CBD, the following two recommendations were made in the BTV2030:

- The City of Bunbury construct Stuart Street as a two-way road throughout its length (refer to BTV2030 Page 24).
- The City of Bunbury install traffic signals at the intersection of Stuart/Blair/Mervyn Streets with this route promoted as alternative access to the CBD (refer to BTV30 Page 24).

Stuart Street was also identified in the BTV2030 as a possible location for a “Free Transit Zone” (or "FTZ") bus service to link the City Centre with free-of-charge commuter car parks on the City's periphery to ensure that parking and public transport strategies are integrated and mutually supportive.

The recommendation that the City of Bunbury install traffic signals at the intersection of Stuart /Blair/Mervyn Streets has already been implemented and the widening of Stuart Street is the next phase of providing alternative access to the CBD.

Council has allocated funds for both the acquisition of land and engineering works associated with the widening of Stuart Street in the Bunbury CBD. The City was also successful in obtaining Regional Road Group funding for modification (and installation) of traffic signals at the Stuart/Spencer Street intersection. It was anticipated that the Stuart Street widening and traffic light installation works could be undertaken together thus reducing the overall cost of the project and the inevitable inconvenience to the public.

In order to widen Stuart Street land needed to be acquired from affected landowners and negotiations were undertaken accordingly. The negotiations involved City officers, a valuer engaged by the City and representatives from law firm, McLeods. Land had been successfully acquired from all but two of the affected landowners. The two properties where it had not been possible to negotiate a purchase were Lot 89 (No. 18) Bourke Street owned by G, J, R & A Princi, and; Lot 88 (No. 11) Stuart Street owned by Mr D Doggett.

McLeods had advised that in its opinion, negotiations had been taken as far as they reasonably could and it was therefore considered necessary that Council resolve to formally request the Minister for Lands to compulsorily acquire the portions of the two remaining subject properties required for the Stuart Street road widening.

At its meeting on 22 May 2007, the Council Decision (No. 105/07) to request the Minister for Lands to compulsorily acquire portion of Lot 88 on Plan 1708 on Deposited Plan 49797 and portion of Lot 89 on Plan 1708 on the Deposited Plan 49798, was adopted.

Since that meeting McLeods has advised that agreement for acquisition has been reached with the registered proprietor of Lot 88 on Plan 1708, which has subsequently proceeded through the subdivision process with the Western Australian Planning Commission.

As requested the Minister for Lands has proceeded with compulsorily acquiring a portion of Lot 89 on Plan 1708 for the purpose of road widening. It is now proposed to request the Minister for Lands to dedicate that portion of acquired land being Lot 307 on Deposited Plan 49798 as a road in accordance with Section 56 of the LAA.

Strategic and/or Regional Outcomes

The dedication of the acquired portion of land from Lot 89 (No.18) Bourke Street is paramount to the successful widening of Stuart Street as identified in the BTV2030, which is consistent with the City's Strategic Plan.

Community Consultation

Extensive community consultation was undertaken during the development of the BTV2030 which recommends widening of Stuart Street for alternative access to the CBD. Further community consultation is not required for Council to resolve this issue.

Councillor/Officer Consultation

Councillors and Executive Management were consulted during the development of the BTV2030 which recommends widening of Stuart Street. Consultation has also taken place within the City Services Division concerning this matter.

Analysis of Financial and Budget Implications

Council had funds allocated in the 2006/2007 budget for the resumption of land along Stuart Street. The budget allocation for the Stuart Street Widening and Resumption of Land is \$291,691.00.

Economic, Social, Environmental and Heritage Issues

The proposed dedication of the compulsorily acquired land does not involve any economic, social, environmental or heritage implications.

Council Policy Compliance

No Council policy applies.

Legislative Compliance

Pursuant to Land Administration Act 1997 – Section 56 the Council is required to request the Minister for Lands (by formal Council Decision) to dedicate the compulsorily acquired land.

Delegation of Authority

The City's Chief Executive Officer does not have the delegated authority of the Council to instigate the dedication of the compulsorily acquired land for public works.

Relevant Precedents

A relevant precedent cannot be provided.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Council resolves not to request the Minister for Land to dedicate the compulsorily acquired land.

Conclusion

Council has allocated funds for both the acquisition of land and engineering works associated with widening of Stuart Street in the Bunbury CBD. The street widening is recommended in the *Integrated Land Use and Transport Vision 2030* document adopted by Council in 2003 and negotiations have resulted in the land required being successfully purchased from all but one of the affected landowners. As negotiations with the outstanding landowner have failed, the Minister for Lands has concluded a compulsory acquisition as requested by Council.

To enable dedication of the acquired land the Minister for Lands requests Council to resolve to dedicate Lot 307 on Deposited Plan 49798 in accordance with the requirements of Section 56 of the Land Administration Act 1997.

Recommendation

1. In accordance with the requirements of Section 56 of the Land Administration Act 1997, the Council requests the Minister for Lands to dedicate Lot 307 on Deposited Plan 49798 as a "road".
2. Council agrees to indemnify the Minister for Lands against any compensation claim made under the Land Administration Act 1997 on account of the taking of such land.

Outcome of the Council Committee Meeting - 11 December 2007

The recommendation was moved Cr Craddock, seconded Cr Rooney. The Presiding Member put the motion to the vote and it was adopted 11 votes "for" to 1 votes "against" to become the Committee's recommendation on this issue.

Committee Recommendation

1. *In accordance with the requirements of Section 56 of the Land Administration Act 1997, the Council requests the Minister for Lands to dedicate Lot 307 on Deposited Plan 49798 as a "road".*
2. *Council agrees to indemnify the Minister for Lands against any compensation claim made under the Land Administration Act 1997 on account of the taking of such land.*

11.11 TENDER RFT 2007/2008-03 - ROAD RE-SEALING PROGRAM (*WAS LISTED AS ITEM 11.13 ON THE MEETING AGENDA*)

File Ref:	R00797
Applicant/Proponent:	Internal Report
Author:	Mark Robson, Contracts Coordinator
Executive:	Michael Scott, Executive Manager City Services

Summary

Council invited suitable companies to tender for the annual Road Resealing Program for 2007-2008.

Background

Tenders were prepared and advertised in *The West Australian* and the *South Western Times* on 7 and 8 November 2007. The tender was for the supply of materials, sampling, testing and operations necessary to provide asphalt resealing to various roads in Bunbury.

Road number	Locations
1	Minninup Road / Constitution Street Roundabout
2	Old Coast Road / Estuary Drive Roundabout
3	Blair Street / Casuarina Drive Roundabout
4	Koombana Drive - Opposite Cable Sands
5	Picton Road - Loc 1 Petherick Street - Loc 2 Henley Drive
6	Koombana Drive / Austral Parade
7	Ecclestone Street / Wisbey Street Roundabout
8	Sandridge Road – Blair Street – Hennessey Street
9	Sandridge Road - Hawkins Street
10	Picton Road - Forrest Avenue Intersection
11	Blair Street - Strickland Street Intersection
12	Brittain Road / Eccelstone Street Roundabout
13	Harris Road / Boyanup Road / Picton Road Intersection
14	Clifton Road / Victoria Street

Tenders closed at 3:00pm on Thursday, 22 November 2007. Mark Robson, Contracts Coordinator, Myles Bovell, Senior Engineering Technical Officer and Amanda Mitchell from Engineering Department opened the tender box.

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A total of two (2) interested companies requested the tender documents with two tenders being received from:

Company	Address	Location
Malatesta Road Paving & Hot Mix	Lot 2 North Boyanup Road	Bunbury
Pioneer Road Services	23 Spencer Street	Bunbury

Term of Contract

The Contract shall be in force for a period of one (1) Year.

Evaluation

An evaluation panel comprising the Contract Coordinator, Senior Engineering Technical Officer and Senior Design and Development Engineer assessed the responses on 27 and 28 November 2007.

The tenders were evaluated under the following: compliance criteria, qualitative criteria and price.

Compliance Criteria

- (a) Confirm you are able to complete the works in the time nominated
- (b) Confirm you are in a financial position to complete the works.
- (c) Confirm you currently hold public liability and employee insurance.

Tenderer	(a) Can you complete work in time nominated?	(b) In financial position to complete works?	(c) Current Public/Employee insurances?
Malatesta Road Paving & Hot Mix	Yes	Yes	Yes
Pioneer Road Services	Yes	Yes	Yes

Qualitative Criteria

Description of Qualitative Criteria	Weighting
(a) Standard of tender submission Have you complied with conditions of tendering? Have you complied with and completed the price schedule?	6

(b) Quality Systems Provide a description of your in-house quality system	3
(c) Understanding Do you understand the required tasks	3
(d) Demonstrated Experience Demonstrated experience and success in completing similar projects	5

Price

The evaluation of the tenderer's prices and ranking has been assessed and because they are commercial-in-confidence, details have been provided in a Confidential Report that has been circulated to members under separate cover.

Strategic and/or Regional Outcomes

Acceptance of the officer's recommendation in this report would be consistent with Council's Strategic Plan 2007-2012 and will enhance the City's road networks.

Community Consultation

Community consultation is not a requirement of a tendering process.

Councillor/Officer Consultation

The tender specifications were developed in consultation with staff involved in the daily operations of the subject. The Manager Operations, Senior Design and Development Engineer, and, Senior Engineering Technical Officer were also involved in this tender and the evaluation process.

Analysis of Financial and Budget Implications

Funding for the projects contained in this tender is part of the "Roads to Recovery" and "Regional Road Group" programs. The Roads to Recovery Program is fully funded by the Federal Government. The Regional Roads Group is two-thirds funded by Main Roads W.A and one-third funded by City of Bunbury

Economic, Social, Environmental and Heritage Issues

Local purchasing assists local businesses.

Policy Compliance

The tender process complies with the requirements of Work Procedure WP4.6 – Tender Procedure, and associated legislation. Both tenderers are located in Bunbury so any adjustments for the “Buy Local Compact” does not apply or affect the outcome of this tender.

Legislative Compliance

Advertising and processing of tenders has been conducted in accordance with the Local Government (Function and General) Regulation 1996, Part 4 – Tenders for Providing Goods or Services (S.3.57).

Delegation of Authority

The total cost of the contract will exceed \$100,000 therefore this contract has been dealt with in accordance with the Local Government (Function and General) Regulation 1996, Part 4 – Tenders for Providing Goods or Services (S.3.57).

Relevant Precedents

Council has dealt with all tenders previously called.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

In respect of Tender 2007/2008-03 for the Road Re-seal Program, the Council resolves to reject all tenders.

Conclusion

Based on the panel's evaluation of the schedule of rates submitted by both Malatesta Road Paving & Hotmix and Pioneer Road Services, the recommended Tenderer is Malatesta Road Paving & Hotmix. This company has provided the City with competitive prices that are considered to be value for money. It has held similar contracts with the city and has also provided satisfactory service to the City of Bunbury during its current contract.

Recommendation

Council to undertake the following with respect to Tender 2007/2008-03 for the Road Re-seal Program:

1. Accept the schedule of rates submitted by Malatesta Road Paving and Hotmix.
2. Record the successful tender price in the Council minutes.

Outcome of the Council Committee Meeting - 11 December 2007

The recommendation was moved Cr Dillon, seconded Cr Major. The Presiding Member put the motion to the vote and it was adopted unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

Council to undertake the following with respect to Tender 2007/2008-03 for the Road Re-seal Program:

- 1. Accept the schedule of rates submitted by Malatesta Road Paving and Hotmix.***
- 2. Record the successful tender price in the Council minutes.***

11.12 TOWN PLANNING SCHEME NO. 7 AMENDMENT - PROPOSED REZONING - PORTION LOT 7 SOUTH WESTERN HIGHWAY, PICTON FROM "MIXED BUSINESS" AND "DEVELOPMENT ZONE RESIDENTIAL" TO "INDUSTRY"; AND, PORTION OF MILL STREET ROAD RESERVE FROM "ACCESS ROAD" TO "INDUSTRY" (WAS LISTED AS ITEM 11.14 ON THE MEETING AGENDA)

File Ref:	A00398
Applicant/Proponent:	J W Cross & Sons - refer to Confidential Report for Partners' names
Author:	Paul Davies, Planning Consultant
Executive:	Geoff Klem, Executive Manager City Development

Summary

An application has been received from Insitu Planning and Design on behalf of J W Cross & Sons for rezoning a portion of Lot 7 South Western Highway, Picton from “Mixed Business” and “Development Zone - Residential” to "Industry", and; portion of Mill Street Road Reserve from “Access Road” to “Industry”.

The subject land is generally identified as Industry in the draft Glen Iris/Moorlands Local Area Plan. The proponents have requested an Industrial zoning to accommodate more industrial type uses than can be accommodated under the current zoning which is predominantly Mixed Business.

The subject land is located adjacent to the existing Picton Industrial area to the east with existing residential properties to the west. The adjoining Residential properties are currently zoned Residential R20 under the City of Bunbury Town Planning Scheme No 7 ("TPS 7").

The adjoining residential properties are, however, identified as Mixed Business under the draft Glen Iris/Moorlands Local Area Plan. On this basis, the proposed Industry zone does not conflict with the proposed future zoning of the adjoining land.

The proponents own the portion of Mill Street proposed to be closed in freehold and this land area is proposed to be amalgamated into the new subdivision lots. The proponent will be required to obtain approval of the adjoining owners who have access rights to the road prior to closure of the road.

It is recommended that Council resolve to initiate an amendment to TPS 7 to rezone the subject land - see Scheme Amendment Report that has been circulated to members under separate cover.

Background

The subject land is located approximately 5km southeast of the Bunbury City Centre in Picton and is located on the north side of South Western Highway. It has recently been subdivided

with construction of new subdivision access roads. The subdivider has also provided a bond to Council for construction of an earth bund and landscaping within the Mill Street Road Reserve as a buffer to adjoining residential properties.

The subject land has approval from the Western Australian Planning Commission (WAPC Ref 134139 dated 1 November 2007). A copy of the approved subdivision plan is included at Attachment 1 of the Scheme Amendment Report that has been circulated under separate cover. The proposed rezoning rationalises the zoning of the approved subdivision land to a single zone "Industry."

Condition 1 of the Subdivision Approval requires the proponent to close the existing Mill Street private road reserve to the satisfaction of the Western Australian Planning Commission prior to any subdivision works being undertaken.

The proponents own the portion of Mill Street proposed to be closed in freehold and this land area is proposed to be amalgamated into the proposed new subdivision lots. Only one other lot currently has access to the private road.

The proponent will be required to obtain approval of any proprietors which have implied rights of way over the private road prior to the road being closed and amalgamated with the proposed subdivision lots. It is considered that the rezoning of the Mill Street road area does not affect access rights of the adjoining property owner.

The issue of road closure will need to be addressed by the proponent and approval of other property owners will be required by Landgate prior to approving Diagrams of Survey for the proposed subdivision. Closure of the private road is required to be undertaken in accordance with Landgate's Land Titles Registration Practice Manual (Clause 8.4.3).

The subdivision area is currently partly zoned Mixed Business and Development Zone Residential and part reserve for Access Road.

The subject land is generally identified as Industry in the draft Glen Iris/Moorlands Local Area Plan ("GIMLAP"). It is anticipated that a report in regard to the proposed GIMLAP will be presented to Council early next year following which the plan will be advertised for community comment.

The proponents have requested an Industrial zoning to accommodate more industrial type business uses than can be accommodated under the current zoning which is predominantly Mixed Business.

It is considered that the subject land is well located for Industrial land uses in view of its proximity to the existing Picton industrial area and major transport routes including existing South Western Highway and Railway line and the proposed future realignment for the South Western Highway.

The subject land is located adjacent to the existing Picton Industrial area to the east with existing residential properties to the west. The adjoining Residential properties are currently zoned Residential R20 under TPS 7.

The adjoining residential properties are, however, identified as Mixed Business under the draft GIMLAP. On this basis, the proposed Industry zone does not conflict with the proposed future zoning of the adjoining land.

The subject land is also proposed to be separated from existing residential development and schools by a future realignment of South Western Highway. The proposed alignment for the deviation of the Highway includes resumption of a portion of Lot 7 generally to the north of the area proposed to be rezoned.

The proposed realignment of the South Western Highway will provide a buffer between the proposed industrial zoned land and the existing residential areas and school sites to the north and east including the Djidi Djidi School and the Bunbury Community School. Possible timing for construction of the realignment of the South Western Highway is not known at this time.

The subdivider has also provided a bond to the City for construction of an earth bund and landscaping within the Mill Street Road Reserve as a buffer to adjoining residential properties from the current Mixed Business zone. In view of the future change of the residential lots to Mixed Business under the Local Area Plan a landscape buffer is not considered necessary.

Strategic and/or Regional Outcomes

The objectives of Council's 2007–2012 Strategic Plan have generally been complied with.

Community Consultation

The proposed Scheme Amendment will be required to be advertised for public comment and referred to Government agencies for comment during the formal advertising period in accordance with Western Australian Planning Commission requirements.

Councillor/Officer Consultation

This matter has been reviewed by City Development Officers i.e., engineering, planning, building and health services staff. Further discussions have taken place with the Manager of Development Services, the Senior Planner (Statutory) and Executive Manager of City Development.

Analysis of Financial and Budget Implications

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

Economic, Social, Environmental and Heritage Issues

In economic terms, the proposal will provide economic benefit by facilitating additional business development. There are no anticipated social, environmental or heritage issues associated with the proposal.

Council Policy Compliance

It is considered that the officer's recommendation does not contravene any known Council policy.

Legislative Compliance

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

Delegation of Authority

Delegation of decision-making is not an option in this instance.

Relevant Precedents

Council has rezoned a number of sites throughout the City. There are no known relevant precedents in respect of the specific matter being considered by Council.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Should the Council elect not to initiate the amendment to the Town Planning Scheme (as proposed) then the following format is suggested:

"Council under and by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005, resolves not to initiate the proposed amendment to City of Bunbury Town Planning Scheme No 7, to:

1. *re-zone a portion of Lot 7 South Western Highway, Picton from "Mixed Business" and "Development Zone - Residential" to "Industry", and;*
2. *portion of Mill Street Road Reserve from "Access Road" to "Industry";*

for the following reason (... the members of Council to supply the reason)."

Conclusion

The subject land is generally identified as zoned "Industry" in the draft Glen Iris/Moorlands Local Area Plan. The proponents have requested an industrial zoning to accommodate more industrial type uses than can be accommodated under the current zoning which is predominantly "Mixed Business".

The subject land is located adjacent to the existing Picton Industrial area to the east with existing residential properties to the west. The adjoining residential properties are currently zoned Residential R20 under the City of Bunbury Town Planning Scheme No 7. These same adjoining residential properties are, however, identified as Mixed Business under the draft Glen Iris/Moorlands Local Area Plan. On this basis, the proposed "Industry" zone would not conflict with the proposed future zoning of the adjoining land.

It is considered that the subject land is well located for industrial land uses in view of its proximity to the existing Picton Industrial area and major transport routes including existing South Western Highway and railway line, and; the proposed future realignment of the South Western Highway.

It is recommended that Council resolve to initiate an amendment to Town Planning Scheme No 7 to rezone the subject land.

Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005, hereby resolves to grant approval to rezone land as follows:

1. Portion of Lot 7 South Western Highway, Picton to be rezoned from "Mixed Business" and "Development Zone - Residential" to "Industry".
2. Portion of Mill Street Road Reserve to be rezoned from "Access Road" to "Industry".

Outcome of the Council Committee Meeting - 11 December 2007

The recommendation was moved Cr Dillon, seconded Cr Craddock. The Presiding Member put the motion to the vote and it was adopted unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005, hereby resolves to grant approval to rezone land as follows:

- 1. Portion of Lot 7 South Western Highway, Picton to be rezoned from "Mixed Business" and "Development Zone - Residential" to "Industry".***
- 2. Portion of Mill Street Road Reserve to be rezoned from "Access Road" to "Industry".***

11.13 PROPOSED 2-STOREY DWELLING (SINGLE HOUSE) - LOT 440 (NO. 6)
WISTERIA COURT, BUNBURY *(WAS LISTED AS ITEM 11.10 ON THE MEETING AGENDA)*

File Ref:	P13310
Applicant/Proponent:	Veens Design Drafting Service (and owner Lot 440 Wisteria Court)
Author:	Teshome Tadesse, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

MEMBERS OF THE MEETING WERE ADVISED THAT THIS ITEM HAD BEEN WITHDRAWN BY THE APPLICANT. HE HAS SUBMITTED REVISED PLANS THAT ADDRESS ISSUES OF CONCERN AND THE MATTER CAN NOW BE HANDLED BY PLANNING OFFICERS.

ACCORDINGLY, NO FORMAL COUNCIL DECISION IS REQUIRED AND THIS ISSUE WILL NOT BE LISTED IN THE COUNCIL MEETING AGENDA.

11.14 PROPOSED LICENCE AGREEMENT – PORTION OF BLAIR STREET ROAD RESERVE TO CITYGATE PROPERTIES PTY LTD (WAS LISTED AS ITEM 11.7 ON THE MEETING AGENDA)

File Ref:	F00102
Applicant/Proponent:	Citygate Properties Pty Ltd
Author:	John Beaton, Manager Administration and Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

An application has been received from Citygate Properties Pty Ltd seeking Council's consideration to grant a licence over portion of the Blair Street Road Reserve (adjacent to the western boundary of Lot 107 Strickland Street, Bunbury) for the purpose of constructing an additional fifty two (52) public/shopper car parking bays linking the existing bays opposite the Bunnings store. The additional bays are required by the applicant to ease the increase in public/shopper demand and are not a development condition to meet the parking requirements for the various developments over the whole of the property.

Site plans are **attached** at Appendix 6.

Background

The care, control and management of the Blair Street Road Reserve is held by the City in accordance with Section 55 of the *Land Administration Act 1997*.

The City has the power to enter into a licence agreement in accordance with Section 8.2 of the City of Bunbury Local Government and Public Property Local Law which states "*notwithstanding anything to the contrary in this Division, the local government may enter into an agreement upon terms within any person with respect to the operation and use of any local government property*".

The applicant will be required to enter into a development agreement based on specific terms and conditions which detail the applicant's responsibilities to:

- construct the fifty two (52) public/shopper car parking bays;
- pipe the existing open stormwater drain (which runs parallel to the western boundary of Lot 107);
- landscape the subject site; and
- realign the existing pedestrian accessway.

The applicant must prepare a detailed plan and specification for the development works for the approval of the City. The plan is to include specifications for the construction of the public/shopper car parking bays, pipe the open stormwater drain, landscaping and realignment of the pedestrian accessway. The car parking bays will be constructed over the piped stormwater drain.

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The applicant will be responsible for all costs associated with the development works and preparation of the licence documentation.

The licence allows the applicant non-exclusive use of the land for the purpose of public/shopper car parking only.

Proposed Lease Details

Commencement Date:	The licence will take effect from the date upon which a Certificate is issued by the City and the applicant's works have been completed.
Term	Initial term of 10 years with a further option of 11 years
Rental:	(a) \$1.00 per annum for the initial term in lieu of the estimated capital contribution (\$500,000) by the applicant in providing additional public/shopper car parking bays. (b) \$10,000 plus GST and indexed by CPI annually during the second term (option).
Permitted Use:	Public/Shopper Car Park
Statutory Obligations:	The applicant to comply with all acts, statutes, ordinances, orders, local laws and regulations in using the licensed area.
Insurance:	The applicant to maintain a Public Risk and General Insurance Policy over the licensed area. Public liability cover to be set at twenty million dollars (\$20M).
Outgoings:	Responsibility of the applicant.
Special Conditions:	<ul style="list-style-type: none"> - The applicant is responsible to enter into a development agreement and obtain development approval (and any necessary building licences) for the licensed area prior to commencing development works. The applicant is responsible for all costs associated with development works and approval processes. - Throughout the licence term (and any extended term) the public/shopper car parking bays located on the licensed area <u>cannot</u> be taken into consideration during assessment of parking arrangements for further development of any portion of Lot 107 Strickland Street

Document Costs:	The applicant is responsible for full costs of document preparation, registration and advertising associated with the application for the licence.
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Strategic and/or Regional Outcomes

Licence applications are considered with reference to the City of Bunbury 2007-2012 Strategic Plan through Strategic Direction 2.4 which states that the City will “*develop a property strategy that benefits the City’s residents, businesses, community and sporting organisations*”.

Community Consultation

The proposal giving notice of the City’s intention to licence portion of the Blair Street Road Reserve will be advertised in accordance with Section 3.58(3) and (4) of the *Local Government Act 1995* for a fourteen (14) day period, inviting public submissions.

Councillor/Officer Consultation

Council officers have held discussions with the applicant and have mutually agreed on the terms and conditions of the licence. The applicant has presented the proposal to Council.

Analysis of Financial and Budget Implications

The applicant is to meet the full cost of the development works, applications for necessary statutory approvals and documentation.

No licence rental will apply in the initial term in lieu of the applicant’s estimated capital contribution of \$500,000 for development of the additional public/shopper car parking bays. An annual licence rental of \$10,000 plus GST will apply from the commencement of the second term and indexed by CPI for the remainder of the term.

Economic, Social, Environmental and Heritage Issues

Economic

The non-exclusive use of the licensed area for the purpose of public/shopper car parking will encourage custom to the business sector in close proximity.

Social

The increase in the number of car parking bays will assist in meeting the increase in demand by the public/shoppers that frequent the area.

Environmental

The applicant is required to comply with all acts, statutes, ordinances, orders, local laws and regulations associated with the development works and the licence during the term.

Heritage

There are no known heritage issues in relation to the application.

Council Policy Compliance

There is no Council policy over the use of the proposed licensed area.

Legislative Compliance

The intention to enter into the license will be advertised with a public submission period of fourteen (14) days in accordance with Section 3.58(3) and (4) of the *Local Government Act 1995*.

Delegation of Authority

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

The application is required to be returned to Council for a decision following receipt of any submissions.

Relevant Precedents

In accordance with Section 8.2 of the City of Bunbury Local Government and Public Property Local Law, the City has previously granted licence agreements to:

1. Calardu Bunbury (WA) Pty Ltd, owner of Lot 56 Sandridge Road, over portion of Sandridge Road road reserve to increase the public/shopper car park area by twenty one (21) bays.
2. Mr J L Rees, owner of Lot 15 Ward Street, over portion of Ward Street Road Reserve to increase the public/shopper car park area by 45 bays.

Both licence agreements required the applicant to meet the full cost of development, landscaping and maintenance.

Options

Option 1

Per the officer's recommendation listed at the end of this report.

Option 2

Per the recommendation (as listed in this report) together with any amendments suggested by members

Option 3

Council resolves not to consent to the licence application.

Conclusion

The applicant's proposal to construct 52 public/shopper car parking bays on portion of the Blair Street Road Reserve to ease car parking needs opposite the Bunnings Store, will not compromise the Blair Street Road Reserve or future requirements for construction of a new eastern carriageway. The proposed licence will allow the applicant non-exclusive use of the land.

The applicant is required to submit a detailed plan and specifications for development work for the approval of the City.

The development works will be provided at no cost to the City and at the expiration of the term, the City will determine the terms on which the applicant will deliver up possession of the land (includes retention of underground piped drain).

Outcome of the Council Committee Meeting - 11 December 2007

Due to expiration of time of the meeting, a motion was moved Cr Craddock, Seconded Cr Dillon and carried unanimously, to transfer the report and recommendation for this item onto the agenda for the Council Meeting on 18 December 2007, and, for the item to be dealt with by the members of the Council as soon as statutorily possible.

The officer's recommendation is repeated below:

Recommendation

Council agrees to grant Citygate Properties Pty Ltd a licence over portion of the Blair Street Road Reserve (adjacent to the applicant's freehold Lot 107 Strickland Street and opposite Bunnings store) for a ten (10) year term with a further option of licence of eleven (11) years for the purpose of public/shopper car parking; subject to the terms and conditions as stated in this report to Council and the following:

- 1. The intention to licence the land to be advertised locally pursuant to Section 3.58(3) and (4) of the Local Government Act 1995 via a notice in the City Update column of the Bunbury Mail newspaper and notices on public noticeboards at the City's Administration Centre, both libraries and the City's website.*
- 2. Subject to no objecting submissions being received, the Chief Executive Officer is authorised to proceed with the preparation and signing of the licence agreement.*
- 3. The applicant to pay the full cost of the development work, document preparation, registration fees, valuation assessments and advertising.*

11.15 FINANCIAL STATEMENTS - NOVEMBER 2007 *(WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA)*

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

Summary/Background

Financial Statements for the period ending 30 November 2007 have been circulated to members under separate cover. The statements include the following details:

Income Statement
Balance Sheet
Statement of Changes in Equity
Statement of Financial Activity
Statement of General Purpose Income
Statement of Rating Information
Note 1 - Significant Accounting Policies
Note 2 - Description of Programmes
Note 3 - Net Current Assets
Note 4 - Receivables
Note 5 - Other Financial Assets
Note 6 - Payables
Note 7 - Provisions
Note 8 - Trust Funds
Note 9 - Capital Expenditure
Note 11 - Key Operating Expenditure and Income (budget exceeding \$20,000)
Note 12 - Loan Funds
Note 13 - Reserve Funds
Note 14 - Bunbury Timber Jetty
Note 15 - Investment Funds

Outcome of the Council Committee Meeting - 11 December 2007

Due to expiration of time of the meeting, a motion was moved Cr Craddock, Seconded Cr Dillon and carried unanimously, to transfer the report and recommendation for this item onto the agenda for the Council Meeting on 18 December 2007, and, for the item to be dealt with by the members of the Council as soon as statutorily possible.

The recommendation is repeated below:

Recommendation

The Financial Statements for the period ending 30 November 2007, be received.

12. MOTIONS ON NOTICE

12.1 MOTION ON NOTICE - AMENDMENT TO STANDING ORDERS LOCAL LAW (LIMIT ON DURATION OF COMMITTEE AND COUNCIL MEETINGS)

File Ref:	A00106
Applicant/Proponent:	Deputy Mayor - Councillor Stephen Craddock
Author:	Deputy Mayor - Councillor Stephen Craddock
Executive:	<i>If adopted by Council refer to: Greg Trevaskis, CEO</i>

Cr Craddock submitted the following motion for consideration at the Council Committee Meeting on 11 December 2007:

1. *The following changes be incorporated into Council's Standing Orders Local Law:-*
 - a) *A time limit be imposed that no Council, Standing Committee of Council or Councillor Briefing Session be permitted to continue past 10.30 pm.*
 - b) *With regard to Council Standing Committee agendas, any items that have not been considered by the committee by 10.30 pm, are to be referred directly to the following Council Meeting for determination.*
 - c) *Agenda items for briefing sessions or ordinary Council Meetings that have not been considered or completed by 10.30 pm shall be adjourned and referred to the next appropriate meeting.*
 - d) *The standard agenda heading 'Urgent Business' be brought forward from near the end of the agenda to close to the front of the agenda.*
2. *The Chief Executive Officer is to report back to Council incorporating the changes outlined above in parts 1.(a), 1(b), 1(c) and 1(d) into a re-formatted Standing Orders Local Law, as soon as practicable.*

Comments - Cr Craddock

In support of his motion, Cr Craddock states that:

Meeting Duration

By 10.30 pm Councillors and staff have been meeting for 4 ½ hours, usually without a break. Three of the last four meetings of Council have closed after 11 pm. The meeting of November 20th closed at 11.55 pm. By this time of night most Councillors and staff are exhausted and unable to concentrate properly and our ability to reason properly must suffer. By restricting the meeting to no later than 10.30 pm, we Councillors may also be more focussed in our debating and accusations of waffling may not be as prevalent as they have become.

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Most Councillors also have full-time jobs to go to on Wednesday and a 10.30 pm limit to meetings would ensure that we have sufficient sleep before work the next day. Our executive staff will also be able to spend Wednesdays more productively.

Urgent Business

The 'urgent business' item is rarely used because the condition of use is that the majority of councillors must believe that the matter for discussion cannot wait until the next Council Meeting. I also appreciate that urgent business should only be used when justified and agreed by Council, as the associated matter has not been subject to prior notice for councillors, staff and the general community. However, on those few occasions that a matter is extraordinary and of an indisputable urgent nature, then a change to enable early consideration in the order of business would accommodate this option.

In the event that a 10.30 pm limit to Council meetings is approved it would be necessary to ensure that 'urgent business' could be discussed before this time as, by its very nature, the urgent business cannot be deferred until the next meeting.

By bringing the 'Urgent Business' forward, this item would be assured of gaining Council consideration on the night."

Executive Comments

Nil.

Outcome of the Council Committee Meeting - 11 December 2007

Due to expiration of time of the meeting, a motion was moved Cr Craddock, Seconded Cr Dillon and carried unanimously, to transfer the report and recommendation for this item onto the agenda for the Council Meeting on 18 December 2007, and, for the item to be dealt with by the members of the Council as soon as statutorily possible.

Cr Craddock's motion is repeated below.

Cr Craddock's Motion

1. *The following changes be incorporated into Council's Standing Orders Local Law:-*
 - a) *A time limit be imposed that no Council, Standing Committee of Council or Councillor Briefing Session be permitted to continue past 10.30 pm.*
 - b) *With regard to Council Standing Committee agendas, any items that have not been considered by the committee by 10.30 pm, are to be referred directly to the following Council Meeting for determination.*
 - c) *Agenda items for briefing sessions or ordinary Council Meetings that have not been considered or completed by 10.30 pm shall be adjourned and referred to the next appropriate meeting.*
 - d) *The standard agenda heading 'Urgent Business' be brought forward from near the end of the agenda to close to the front of the agenda.*
2. *The Chief Executive Officer is to report back to Council incorporating the changes outlined above in parts 1.(a), 1(b), 1(c) and 1(d) into a re-formatted Standing Orders Local Law, as soon as practicable.*

**12.2 MOTION ON NOTICE - AMENDMENT TO STANDING ORDERS LOCAL LAW
(REDUCE SPEAKING LIMITS AT COMMITTEE AND COUNCIL MEETINGS)**

File Ref:	A00106
Applicant/Proponent:	Councillor Tom Dillon
Author:	Councillor Tom Dillon
Executive:	<i>If adopted by Council refer to:</i> Greg Trevaskis, CEO

Cr Dillon submitted the following motion for consideration at the Council Committee Meeting on 11 December 2007:

- "1. Clause 12.5 of the Standing Orders to be amended to limit speeches from the maximum 10 minutes that currently exists to a maximum of 7 minutes (to be preceded by a verbal reminder from the Presiding Member at the 5-minute mark).*
- 2. Clause 6 of the Standing Orders to include an additional clause that presentations and contributions from proponents, constituents, opponents or members of the public at meetings (as allowed by the Presiding Member) are to be reasonably curtailed."*

Comments - Cr Dillon

In support of his motion, Cr Dillon states that: *"It is my understanding that the Deputy Mayor has forwarded a Motion on Notice calling for a 10.30pm curfew on meeting times. This motion does have, and will receive my undivided endorsement and whole hearted support and I take this opportunity to propose an additional amendment to the City's Standing Orders Local Law."*

Executive Comments

Nil.

Outcome of the Council Committee Meeting - 11 December 2007

Due to expiration of time of the meeting, a motion was moved Cr Craddock, Seconded Cr Dillon and carried unanimously, to transfer the report and recommendation for this item onto the agenda for the Council Meeting on 18 December 2007, and, for the item to be dealt with by the members of the Council as soon as statutorily possible.

Cr Dillon's motion is repeated below:

Cr Dillon's Motion

1. *Clause 12.5 of the Standing Orders to be amended to limit speeches from the maximum 10 minutes that currently exists to a maximum of 7 minutes (to be preceded by a verbal reminder from the Presiding Member at the 5-minute mark).*
2. *Clause 6 of the Standing Orders to include an additional clause that presentations and contributions from proponents, constituents, opponents or members of the public at meetings (through invitation of the Presiding Member) are to be reasonably curtailed.*

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

Nil.

14. **ITEMS TO BE NOTED OR ENDORSED**

14.1 **ITEMS TO BE NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING**

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

Summary

Committee Members referred to the report circulated under separate cover.

Outcome of the Council Committee Meeting - 11 December 2007

The recommendation to note the items listed in the report, was moved Cr Dillon, seconded Cr Craddock. The Presiding Member put the motion to the vote and it was adopted unanimously to become the Committee's recommendation on this issue.

Committee Recommendation

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

- Title:** Accounts for Payment - November 2007*
***Author:** David Ransom, City Accountant*
***File:** A00083*

14.2 ITEMS TO BE ENDORSED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING

There were 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 Presiding Member declared the meeting closed at 11.50pm.

CONFIRMED this day 29 January 2008, to be a true and correct record of proceedings of the Council (Standing) Committee Meeting held on 11 December 2007.

MAYOR D SMITH
PRESIDING MEMBER