



22 May 2007

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### **GLOSSARY OF ABBREVIATED TERMS**

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

<b>Term</b>	<b>Explanation</b>
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council
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.

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

## COUNCIL MEETING MINUTES

Minutes of an Ordinary Meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 22 May 2007.

### MINUTES

22 May 2007

NOTE: These minutes are subject to confirmation at the Council Meeting on 12 June 2007.

#### 1. DECLARATION OF OPENING BY THE MAYOR

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

#### 2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

*PRESENT*

<b>Council Committee Members</b>	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor J Jones
	Councillor A Leigh
	Councillor W Major
	Councillor R Frisina
	Councillor N McCleary
	Councillor T Smith
	Councillor L Rose
	Councillor S Craddock
	Councillor S Rooney
<b>Executive Management Team (Non-Voting)</b>	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Mr D Marzano
<b>Council Officers (Non-Voting):</b>	
City Accountant:	Mr D Ransom
Assistant Accountant:	Mr D Harrison
Administration Officer Corporate Services:	Ms D Ryan
<b>Others (Non-Voting):</b>	
Members of the Public:	13
Members of the Press:	1

*APOLOGIES:*

Councillor Dillon - Leave of Absence 9 May to 1 June 2007 (Decision No. 54/07)  
Councillor D Wenn - Apology  
Councillor W Lambert - Apology

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

Not applicable.

**4. PUBLIC QUESTION TIME - AS SPECIFIED UNDER SECTION 5.24 OF THE LOCAL GOVERNMENT ACT 1995**

No questions.

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

Nil.

**6. CONFIRMATION OF PREVIOUS MINUTES**

The recommendation to confirm the minutes was moved Cr Craddock, seconded Cr Major. The Mayor put the motion to the vote and it was adopted to become the Council's decision.

**COUNCIL DECISION 91/07**

*The minutes of the Council Meeting held 1 May 2007, be confirmed as a true and accurate record.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**7. DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995**

Cr Rose disclosed an impartiality interest in the item titled "*Proposed Compulsory Acquisition of Land Required for Stuart Street Widening*" as she has had previous business dealings with Mr Princi.

Cr Frisina disclosed an impartiality interest in the item titled "*Proposed Compulsory Acquisition of Land Required for Stuart Street Widening*" as one of the blocks of land involved is owned by his relative.

**8. ANNOUNCEMENTS BY THE MAYOR (WITHOUT DISCUSSION)**

1. The Mayor reminded councillors that they have been provided with a copy of the following documents. He requested that councillors read the documents thoroughly before they are discussed at Committee and Council Meetings in June 2007.

- Delegations Register
- Committee Book
- Policy Manual

2. The Mayor advised councillors that Friday, 25 May 2007 will be the last day of operation for the existing Bunbury Library building and an informal public farewell to the old building will be held from 5.00pm onwards. The library will re-open at its temporary location corner Bourke and Strickland Streets on Monday, 18 June 2007.

3. A civic reception was held in the Council Function Room this afternoon (22 May 2007) in honour of the Anglican Archbishop of Perth, the Most Reverend Roger Herft, who is visiting the Bunbury Diocese at present.



**9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS**

**9.1 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR WAYNE MAJOR**

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

**Summary/Background**

The Chief Executive Officer advised the Council Meeting that Councillor Major has requested leave of absence from all Council-related business from 6 to 26 August 2007 (inclusive).

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

Cr Jones moved, Cr Leigh seconded that the request from Cr Major be granted. The Mayor put the motion to the vote and it was adopted to become the Council's decision.

**COUNCIL DECISION 92/07**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Major is granted leave of absence from all Council-related business from 6 to 26 August 2007 (inclusive).*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS**

Nil.

**11. RECEPTION OF REPORTS AND RECOMMENDATIONS FROM THE COUNCIL**  
**(STANDING) COMMITTEE MEETING HELD 15 MAY 2007**

At this point in proceedings, the Council adopted *en bloc* committee recommendations listed under items 11.1, 11.2, 11.3, 11.5, 11.6, 11.7, 11.8, 11.9, 11.11, 11.12, 11.13 and 11.14 of the agenda (as permitted under the City's Standing Orders).

Items 11.4 and 11.10 of the agenda were then dealt with (and voted on) individually. Accordingly, all items listed in this section of the minutes have been re-ordered and re-numbered.

**11.1 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR TOM DILLON**

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

**Summary/Background**

Councillor Dillon has requested leave of absence from all Council-related business from 18 July to 31 August 2007 (inclusive).

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

**Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Dillon is granted leave of absence from all Council-related business from 18 July to 31 August 2007 (inclusive).

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Craddock, seconded Cr Leigh.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

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**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Jones.

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

**COUNCIL DECISION 93/07**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Dillon is granted leave of absence from all Council-related business from 18 July to 31 August 2007 (inclusive).*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.2 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR DOUG WENN**

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

**Summary/Background**

Councillor Wenn has requested leave of absence from all Council-related business from 28 May to 11 June 2007 (inclusive).

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

**Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Wenn is granted leave of absence from all Council-related business from 28 May to 11 June 2007 (inclusive).

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Frisina, seconded Cr Jones.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

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**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Jones.

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

**COUNCIL DECISION 94/07**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Wenn is granted leave of absence from all Council-related business from 28 May to 11 June 2007 (inclusive).*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.3 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR RAY FRISINA**

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

**Summary/Background**

Councillor Frisina has requested leave of absence from all Council-related business from 28 May to 4 July 2007 (inclusive).

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

**Recommendation**

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Frisina is granted leave of absence from all Council-related business from 28 May to 4 July 2007 (inclusive).

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Leigh, seconded Cr Jones.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

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**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Jones.

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

**COUNCIL DECISION 95/07**

*Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Frisina is granted leave of absence from all Council-related business from 28 May to 4 July 2007 (inclusive).*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.4 LOT 1 (NO. 37A) FORREST AVENUE - PROPOSED CHANGE OF USE FROM 'RESIDENTIAL - SINGLE HOUSE' TO 'CONSULTING ROOMS' (WAS LISTED AS ITEM 11.5 ON THE MEETING AGENDA)**

<b>File Ref:</b>	P03066
<b>Applicant/Proponent:</b>	Esyltt Graham, Applicant
<b>Author:</b>	Lindsay Bergsma, Planning Officer
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

Council has received a development application from Esyltt Graham on behalf of the Estate of Elsie Lilian Nichols (the Executor for the estate being Kenneth Nichols) for a change of use to consulting rooms on Lot 1 (No. 37A) Forrest Avenue, South Bunbury.

The subject site is zoned “Residential R15” within which consulting rooms are an “A” use. The proposal was advertised and no submissions were received.

Because of the nature of the proposed land use on the subject site, the City’s ‘Local Planning Policy- Non-Residential Development in or Adjacent to Residential Areas’ is applicable. The lot is not within the ‘frame areas’ outlined in the policy and therefore the proposal is being referred to Council for determination.

**Background**

The subject land is zoned ‘Residential R15’ and currently there is an existing single house on-site. The zoning of the subject land will remain the same. Consulting rooms in a residential zone are an “A” use under the City’s current Town Planning Scheme (TPS No. 7) meaning this is a use that is not permitted unless the local government exercises its discretion and grants planning approval after advertising the proposal for public comment.

A location plan is **attached** at Appendix 3.

The applicant currently operates a chiropractic practice in Collie and wishes to establish a practice in Bunbury in order to have a central location for patients living in Bunbury, Eaton, Australind, Busselton and Donnybrook. She also wishes to employ an associate chiropractor (having not been successful at this point in time) and believes that by having a Bunbury practice, it will increase the likelihood of attracting an associate.

The proposal is outside the ‘frame areas’ (as defined by the City’s Local Planning Policy- Non-Residential Development in or adjacent to Residential areas) where normally non-residential development cannot be supported by Council unless there is a strong justification. The applicant has submitted justifications for Council’s consideration.

The proposal is a change of use from 'Residential – Single House' to 'Consulting Rooms' at Lot 1, No. 37A Forrest Avenue, South Bunbury. A total of two consulting rooms are proposed and the consulting rooms are to be used for a chiropractic practice. Since the applicant wishes to employ an associate chiropractor, she also wishes to offer the associate living quarters in the existing building at Lot 1, No. 37A Forrest Avenue. A site plan and floor plan are **attached** at Appendix 4.

The site plan submitted by the applicant shows an existing house fairly central on the lot with vehicle access from Forrest Avenue as well as via a right-of-way from Doris Street. Three parking bays are proposed at the front of the subject lot (with access from Forrest Avenue) and five parking bays are proposed at the rear of the lot (with access via the right-of-way). Therefore, a total of 8 parking bays are proposed on the site which meets the Town Planning Scheme requirements of 4 parking bays per consulting room. The applicant has also submitted a floor plan showing the location of two consulting rooms within the existing building.

The proposal was advertised for a three week period between 28 February 2007 and 20 March 2007. No submissions were received.

#### Local Planning Policy – Non-Residential Development in or Adjacent to Residential Areas

The City's Local Planning Policy mentioned above designates sites in the City where Council can consider non-residential development within residential areas favourably, mainly those areas which are adjacent to commercial areas. They are listed as follows:

- Bunbury Forum
- Bunbury Plaza
- Crosslands Shopping Centre
- Minninup Forum
- Frankel Street Shops
- Mondak Place
- Wollaston Shopping Centre
- Minninup/Mossop Streets
- Beach Road/Jarraah Street Shops
- Leschenault Quays
- Stirling Street/Burt Street
- Spencer Street/Constitution Street
- Spencer Street/Columba Street
- City Centre zone
- Mixed Business zones-Spencer and Blair
- Parade Road/Tuart Brook (Future Neighbourhood Centre)
- Picton Road, Glen Iris

**Attached** at Appendix 5 is the 'frame areas' location map.

The Policy also specifies that non-residential uses external to a 'frame area' will generally not be supported unless there is strong justification for the proposal to be considered. The subject land is outside the 'frame areas'.

One of the objectives of the Policy specifies restriction of the spread of 'ribbon commercial' development along roads outside of the Central Business District. This objective has relevance to this proposal in that the subject land is outside the Central Business District. It can be argued however that due to the nature of the area, this proposal would not be encouraging 'ribbon commercial' development but would rather be consolidating the 'mixed land uses' already present through the area. The arguments submitted by the applicant also confirm this.

As outlined earlier, the Policy states, "If an application is received for non-residential uses external to a 'frame area', the application will generally not be supported unless there is strong justification for the proposal to be considered. Issues that would be taken into consideration include the nature of the proposal, the location, surrounding land uses, traffic impacts, road function etc."

In response to this statement of the Policy, it should be noted that there is strong justification for the proposal to be considered. In regard to the nature of the proposal, the land use is proposed to change but no changes are proposed to the existing building. The bulk and scale of the building is not proposed to be increased and the residential nature of the building is to remain.

In regards to the location of the proposal and the surrounding land uses, the applicant has noted in her further justification submission that the location of the subject lot is in an area where many other non-residential uses exist. She states that quite a number of the lots along Forrest Avenue, between Spencer Street and Blair Street, have been converted (from dwellings) to many other uses other than residential. She gave examples such as accountants, tax agents, dentist and haematologist. Her conclusion is that to include another health professional in this area would be in keeping with these uses already approved.

The traffic and road function will not be detrimentally impacted upon since Forrest Avenue is already a road which has quite a high traffic volume. Doris Street is similar, although to a slightly lesser extent. The City's Engineering department had no objection to the access proposed via Forrest Avenue and via the right-of-way from Doris Street.

Also, it should be noted that the area of "Residential" zoned land approximately bound by Strickland Street, Spencer Street, Blair Street and Forrest Avenue is currently being examined by the Strategic Planners in regard to the specific use of this land. Although it is currently residential land, this area has been nominated as a possible future mixed business area by the City's Commercial Strategy. The Strategy states that if this area was to be changed to mixed business, it would round off the mixed business area as a whole since currently this area of land approximately bound by Strickland Street, Spencer Street, Blair Street and Forrest



Avenue is virtually all residential land and almost completely surrounded by “Mixed Business” zoned land. It should be noted that since ‘consulting rooms’ are a permitted use in the “Mixed Business” zone, if this area was to change to this zoning it is likely that more consulting rooms and similar uses would locate in this area in the future.

Therefore, although the City’s Local Planning Policy- Non-Residential Development in or adjacent to Residential areas shows the subject lot to be outside of the ‘frame areas’ and the Policy states that non-residential uses external to a ‘frame area’ will generally not be supported, there is strong justification for this proposal to be considered. The issues raised in the Policy have been considered and the proposal has been shown to be compatible with the surrounding area. The fact that the general (residential) area surrounding the subject lot has also been nominated as a possible future mixed business area by the City’s Commercial Strategy, also only helps to support the proposal.

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

Council’s Strategic Plan states that Bunbury City Council has a goal to “Have a built environment which is safe, accessible functional attractive and sympathetic with the natural environment”. To achieve this goal, Council is guided by its strategy to “Undertake assessment and approvals of all development proposals within the context of the Town Planning Scheme”. In this case, the proposal has been considered in the context of its compliance with current Scheme and has been assessed against the associated planning policies.

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

### **Community Consultation**

The proposal was advertised for a three week period between 28 February 2007 and 20 March 2007. No submissions were received.

### **Councillor/Officer Consultation**

The proposal was received on 18 January 2007, and it was tabled for the Development Coordinating Unit (DCU) meeting of 23 January 2007 during which time some of the issues were discussed among the concerned Departments. Further discussions were required with individual officers from some Department about specific issues in regard to the proposal.

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

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

The effect of the Executive 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**

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

### **Council Policy Compliance**

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

### **Legislative Compliance**

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

### **Delegation of Authority**

The proposal is not in strict accordance with Council's Policy and therefore requires consideration by Council.

### **Relevant Precedents**

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

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

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

*"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves not to grant planning approval in respect of the proposed change of use from 'Residential - Single House' to 'Consulting Rooms' at Lot 1 (No. 37A) Forrest Avenue as the proposed change of use is inconsistent with the City's 'Local Planning Policy- Non-Residential Development in or Adjacent to Residential Areas' which identifies residential sites designated for non-residential development i.e., the subject land is outside the relevant 'frame area'."*

### **Conclusion**

The City's Local Planning Policy "Non-Residential Development in or Adjacent to Residential Areas" shows the subject lot to be outside of the 'frame areas'. The Policy states that non-residential uses external to a 'frame area' will generally not be supported unless there is strong justification for the proposal to be considered. The issues raised in the Policy (i.e., the nature of the proposal, the location, surrounding land uses, traffic impacts, road function) have been considered and the proposal has been shown to be compatible with the area in which it is to be located. The fact that the general (residential) area surrounding the subject lot has also been nominated as a possible future mixed business area by the City's Commercial Strategy, helps in supporting the proposal.

### **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 Planning Approval for the proposed change of use from 'Residential – Single House' to 'Consulting Rooms' at Lot 1 (No. 37A) Forrest Avenue subject to the applicable development conditions to the satisfaction of the Manager Development Services.

### **Outcome of the Council Committee Meeting - 15 May 2007**

The Presiding Member called for public speakers.

Mr Ken Nicholls (applicant) responded to questions from committee members concerning proposed parking arrangements, the right-of-way, landscaping and trading hours.

The recommendation was moved Cr Craddock, seconded Cr Frisina.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Leigh.

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

**COUNCIL DECISION 96/07**

*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 Planning Approval for the proposed change of use from 'Residential – Single House' to 'Consulting Rooms' at Lot 1 (No. 37A) Forrest Avenue subject to the applicable development conditions to the satisfaction of the Manager Development Services.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.5 PROPOSED SCHEME AMENDMENT - LOT 5 PICTON BOYANUP ROAD - PERTH INTERNATIONAL MOTORSPORTS MANAGEMENT LAND - KOLTASZ SMITH PLANNING CONSULTANTS** *(WAS LISTED AS ITEM 11.6 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00398
<b>Applicant/Proponent:</b>	Koltasz Smith (for Bunbury Motorsports Industrial Properties Pty Ltd)
<b>Author:</b>	Sam McNeilly, Senior Planner (Statutory)
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

### **Summary**

Koltasz Smith, Planning Consultants, who act on behalf of Bunbury Motorsports Industrial Properties Pty Ltd, has lodged a formal application to the City to amend the current Town Planning Scheme No. 7 ("TPS 7"). The proposal is to rezone the land being Lot 5 Picton-Boyanup Road from "Rural (with a Development Investigation Policy Area requirement)" to "Development Zone - Industrial".

The rezoning forms part of an associated rezoning proposal within the Shire of Dardanup municipality (currently the Shire of Dardanup has resolved to initiate the proposed Scheme Amendment). The substantive part of the rezoning proposal lies within the Shire of Dardanup. The total site area is 333 hectares of which 53 hectares (relevant plan **attached** at Appendix 8) are located within the City of Bunbury municipality.

Concurrently, Koltasz Smith has submitted a separate and similar application to the Shire of Dardanup with a proposal to rezone that part of lot 5 which lies in Dardanup from "General Farming" to "Development Zone". Dardanup has granted approval to initiate the Scheme Amendment. In that each municipality would carry out a similar rezoning for its respective part of lot 5, in the end one would have a similar zone covering the two municipalities.

### **Background**

Council will be aware that it has previously approved a Structure Plan (formal endorsement 26 February 04) over Lot 5 (in association with the Shire of Dardanup) to allow an International Motor Sports Race Track (Formulae Nissan) to be constructed subject to clearance of certain environmental and other matters. (Plan **attached** at Appendix 9). To date the proponents of the Track have not submitted any specific planning application(s) to the City of Bunbury to allow the matter to be taken to the next stage of approval. The Shire of Dardanup has recently extended the original grant of planning approval for the Track.

The applicant has advised that the development of an Industrial and Technology Park is necessary to complement the Motor Sports facility and that this is in line with international trends. The purpose of the currently presented Scheme Amendment is therefore to facilitate the early development of the land.

The Shire of Dardanup has recently determined to initiate a similar Scheme Amendment as it impacts that Municipality (copy of Planning Report is **attached** at Appendix 10). Essentially the substantive part of the Scheme Amendment area lies within the Shire of Dardanup – 333 hectares in Dardanup and 53 in Bunbury. In the Dardanup municipality the proposal is to rezone the land from “General Farming” to “Development Zone”.

The proposal is to rezone part of Lot 5 Boyanup Picton Rd. from its current zoning (Rural) to “Development Zone - Industrial” within the City of Bunbury Municipality (refer rezone plan **attached** at Appendix 11).

It is noted that Koltasz Smith has submitted a separate and similar application to the Shire of Dardanup with a proposal to rezone that part of lot 5 which lies in Dardanup from “General Farming” to “Development Zone”. Dardanup has granted approval to initiate the Scheme Amendment.

The current Town Planning Scheme (TPS 7) indicates that the preferred land-use at this point in time is “Rural”. The decision by the City to opt for a Rural zoning (at time of the preparation of the Town Planning Scheme 7) would have been made, however, in the knowledge that the longer-term land use envisaged for this general area would be industrial pursuant to the Bunbury Wellington Region Plan.

At a practical level, and in terms of future long-term land use, the “Industry 2030: Greater Bunbury Industrial Land and Port Access Planning Report” applies. This report was produced in the year 2000 and was the State Government’s planning response to the predicted industrial land and port access needs of the Greater Bunbury Region up to the year 2030. The Industry 2030 report recommends that most of the subject land in the two municipalities would have an industrial use in the longer term. In the Industry 2030 Report, the land within the Bunbury area is shown to be for small lot General Industry subdivision in the future (plan **attached** at Appendix 12).

Whilst the Industry 2030 report is an interim strategy only, the WAPC is currently proceeding to test the efficacy of the proposal by initiating the formulation of a Structure Plan for the greater Preston Park Industrial area (PIPSP). The PIPSP will address key issues such as the extent to which new industrial land is needed, the type of industry needed and the protection of the natural environment.

As the applicant has indicated, the inclusion of the subject land within a Development Zone will provide an opportunity to integrate structure planning for the Site within the development of the PIPSP. It is suggested also that the creation of a Development Zone, and the preparation of a sub-structure plan within the overall Preston Park Industrial Structure Plan will allow earlier and more focused study of issues specific to the subject land. This should not, in the opinion of Development Services, be at the cost of broader planning studies (in terms of the efficacy of the final document and what it can achieve in terms of development

and environmental standards) for the entire PIPSP area. Furthermore, the concept of the creation of a suitable Development zone is a necessary mechanism to allow some level of flexibility in the planning and development process, and should result in the earlier subdivision of the land whilst being subject to all necessary environmental and other planning constraints.

Road access is an important element in terms of the matter at hand. In terms of the previously approved Development Guide Plan (DGP) for the PIMM motorsports track the road accesses are as indicated on the drawing. The key access in terms of the approval of such plan (the Motorsports DGP) is the one proposed giving direct access to the South Western Highway (with a crossing over the railway); this access is required to be formalised by way of the ceding (to Council and at no cost) of the access leg from the main body of Lot 5 to the South Western Highway as indicated on the approved DGP; currently the City is analysing a subdivision application from the proponent and it is intended that the City will recommend that the proposed subdivision should be approved subject to a specific (and among others) condition such that the access leg referenced is ceded free of cost to the City per the provisions of the approved DGP (and that this become a condition of subdivision approval).

It is also noted that the City is in receipt of a copy of a letter to WA Developments (the developer) from Main Roads WA, discussing three possible alternative options for road access to the site. Whilst Main Roads WA has a preferred road access in terms the proposed development, the final determination on this matter would be better left until the formal Structure Plan is submitted by the developer at a later date so that road access can be considered in line with all other relevant issues. This is reflected in the recommendation.

In terms of environmental considerations it is noted that the applicant has commissioned a company (ENV Australia) to carry out a detailed assessment of the land concerned. The applicant advises that the study will determine the potential impact of development upon the following: proximity to the Preston River; groundwater; remnant vegetation; flora and fauna communities; and potential wetlands. The applicant advises that such study will be carried out in accordance with the requirements of the Department of Environment and Conservation.

A minor, but perhaps relatively important, point of variance between the two council areas is that in Dardanup the future zone is proposed to be called simply "Development Zone" whereas in Bunbury it is proposed to be called "Development Zone – Industrial". It is considered that it would be preferable, from a broader State perspective to have the same nomenclature for the zone in both municipalities. The City of Bunbury already has a zone called Development Zone – Industry so it would be logical in the opinion of Development Services to call the zone which straddles the two councils, Development Zone – Industry; this is reflected in the recommendation.

Also at a minor but important level, it is noted that the applicant has included a list of possible land uses which are anticipated for the future subdivisional area. Development Services is of the view that some of such intimated uses (eg accommodation for persons involved in motor sports track events, and child care facilities etc.) could not be easily justified from a land-use perspective in terms of the provisions of the current Town Planning Scheme. In light of this, Development Services is of the view that the way to resolve the matter at this point in time is to approve the initiation of the Scheme Amendment subject to a condition stating very clearly that Council will not actually consider any land uses at this point in time, and also to the effect that actual consideration of land uses will occur at the point in time of consideration of any future structure plan, and that it is likely that Council would not be inclined to significantly alter its current list of uses which are currently listed in the zoning matrix as being possible within the Industry zone.

Koltasz Smith (Planning Consultants) has submitted a plan (**attached** at Appendix 13) to indicate how it is proposed to subdivide the land to allow the separate development of the Bunbury International Motorsports Complex (BIMC) and the associated industrial subdivision. This subdivision is currently being processed by Development Services.

So that Council can get a more detailed overview of the matter a copy of the Koltasz Smith Scheme Amendment justification report is **attached** to this report at Appendix 14.

It is considered, therefore, that on broad balance the Scheme Amendment report as prepared by Koltasz Smith is in order and that the proposal to initiate the Scheme Amendment should be supported as indicated in the recommendation.

### **Strategic Outcomes**

It is considered that the broad direction of the City's 2002 –2007 Strategic Plan would not be compromised to any significant extent by supporting the proposed development.

### **Community Consultation**

It is a statutory requirement that Scheme Amendments are publicly advertised for comment for a period of 42 days minimum following endorsement by the EPA. Council takes into account any submissions received during the period of advertising prior to final adoptions of the Scheme Amendment. The submissions and Scheme Amendment documents are then referred to the WAPC for final endorsement by the Minister for Planning and Infrastructure.

### **Applicant Consultation**

In order to progress the matter, discussions have been undertaken with the applicant on a number of occasions.

### **Councillor/Officer Consultation**

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



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

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

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

#### Economic

It is considered that the proposed development would provide relatively significant economic benefits to the City as it proceeds to take up its second-city status in the State.

#### Social

It is considered that there would be no adverse social consequences should the proposed Scheme Amendment proceed.

#### Environmental

There are known environmental issues and to this end the applicant has arranged to hire the services of a specialist consultancy in that professional field. The applicant has commissioned a company (ENV Australia) to carry out a detailed assessment of the land concerned. The applicant advises that such study will be carried out in accordance with the requirements of the Department of Environment and Conservation.

#### Heritage

It is recommended that (as indicated in the recommendation) that a full Aboriginal assessment of the site is to be undertaken by the proponent in accordance with applicable legislation. This reflects the action required as part of the approval of the PIMM motorsports Development Guide Plan.

### **Council Policy Compliance**

The proposal complies with the requirements of Local Planning Policies under TPS No 7. The Local Planning Policy titled "Scheme Amendments: Application Requirements and Documentation for Purposes of Advertising" is a relevant policy in this case.

### **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 item.

### **Delegation of Authority**

Delegation of authority is not applicable in this case.

### **Relevant Precedents**

There are no known absolutely relevant precedents

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Should Council determine not to support the proposed initiation of a Scheme Amendment in respect of the proposed development, a suggested format for such action is as follows:

*"Council under and by virtue of the powers conferred upon it in that behalf pursuant to the Town Planning and Development Act 2005 (as amended), hereby resolves that in respect of communication dated 15 March 2007 from Koltasz Smith Planning Consultants regarding Lot 5 Picton-Boyanup Road, Council is not prepared to initiate a Scheme Amendment as (in Council's opinion) consideration of the Scheme Amendment is premature and in the circumstances, it would be preferable to await finalisation of the Preston Industrial Park Structure Plan to determine all issues at a broad level within the Structure Plan area."*

### **Conclusion**

On analysis it is considered that the planning report as submitted by Koltasz Smith is in order, and, at a structural level, properly justifies the proposed amendment to the current Town Planning Scheme (TPS 7). The creation of sub-structure plan (which is a requirement of the formation of a Development Zone) will allow earlier and more focused study of issues specific to the land under question. Importantly this action should not be at the cost of efficacy of broader planning studies relating to the Preston Industrial Park structure plan and arguably the creation of a suitable Development Zone is a necessary mechanism to allow some level of flexibility in the planning and development process.

### **Recommendation**

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the Town Planning and Development Act 2005 (as amended) hereby resolves that in respect of communication dated 15 March 2007 from Koltasz Smith Planning Consultants (on behalf of Bunbury Motorsports Industrial Properties Pty Ltd) it is prepared to initiate a Scheme Amendment to Town Planning Scheme No. 7 whereby Lot 5 Boyanup-Picton Road would be rezoned from its current zoning of "Rural" to "Development Zone – Industrial" and as depicted in the submitted report dated March 2007, and subject to the following conditions.

1. The applicant being aware that the matter of land-uses within the future Industry Zone will be determined by the City of Bunbury at the time of consideration of a future Structure Plan for the entire portion of Lot 5 Boyanup-Picton Road and that it likely that actual consideration of land use will occur at the point in time of consideration of any future structure plan, and that it is likely that Council may be inclined not to significantly alter its current list of uses which are currently listed in the zoning matrix as being possible within the Industry Zone except where there is clear justification by the proponent of benefits in terms of land-use considerations.
2. That the applicants liaise with the Shire of Dardanup to determine if it would be prepared to call the zone within its municipality "Development Zone – Industry" in the interests of having some level of commonality between the two councils and especially in that the one zone actually straddles the two Council areas, and that if the Shire of Dardanup is in agreement in this regard that the WA Planning Commission be requested to alter the relevant nomenclature in the finally approved documentation.
3. A full Aboriginal assessment of the site is to be undertaken by the proponent in accordance with applicable legislation as part of any structure planning process. Note: this reflects the action required as part of the approval of the PIMM Motorsports Development Guide Plan.
4. The applicant submitting formal Scheme Amendment documentation for Council's further consideration prior to advertising (after reference to the Department of the Environment).

#### **Outcome of the Council Committee Meeting - 15 May 2007**

The Presiding Member called for public speakers.

Acting for the applicant, Mr Steve Quantrill (Managing Director) and Mr Peter Dockett (Project Manager) of WA Developments, responded to questions from committee members. They confirmed that the land is owned by Perth International Motorsports Management Pty Ltd and Bunbury Motorsports Industrial Properties Pty Ltd as "Tenants in Common". If the application to develop the land into a race track (and associated facilities) is unsuccessful then the land will be developed into an industrial estate.

The Executive Manager City Development confirmed that utilising the land for industrial purposes is compliant with future use of this area proposed by the Greater Bunbury Region Scheme and Bunbury-Wellington Region Plan.

The recommendation was moved Cr Frisina, seconded Cr T Smith.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Leigh.

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

**COUNCIL DECISION 97/07**

*Council under and by virtue of the powers conferred upon it in that behalf pursuant to the Town Planning and Development Act 2005 (as amended) hereby resolves that in respect of communication dated 15 March 2007 from Koltasz Smith Planning Consultants (on behalf of Bunbury Motorsports Industrial Properties Pty Ltd) it is prepared to initiate a Scheme Amendment to Town Planning Scheme No. 7 whereby Lot 5 Boyanup-Picton Road would be rezoned from its current zoning of "Rural" to "Development Zone – Industrial" and as depicted in the submitted report dated March 2007, and subject to the following conditions.*

- 1. The applicant being aware that the matter of land-uses within the future Industry Zone will be determined by the City of Bunbury at the time of consideration of a future Structure Plan for the entire portion of Lot 5 Boyanup-Picton Road and that it is likely that actual consideration of land use will occur at the point in time of consideration of any future structure plan, and that it is likely that Council may be inclined not to significantly alter its current list of uses which are currently listed in the zoning matrix as being possible within the Industry Zone except where there is clear justification by the proponent of benefits in terms of land-use considerations.*
- 2. That the applicants liaise with the Shire of Dardanup to determine if it would be prepared to call the zone within its municipality "Development Zone – Industry" in the interests of having some level of commonality between the two councils and especially in that the one zone actually straddles the two Council areas, and that if the Shire of Dardanup is in agreement in this regard that the WA Planning Commission be requested to alter the relevant nomenclature in the finally approved documentation.*
- 3. A full Aboriginal assessment of the site is to be undertaken by the proponent in accordance with applicable legislation as part of any structure planning process. Note: this reflects the action required as part of the approval of the PIMM Motorsports Development Guide Plan.*
- 4. The applicant submitting formal Scheme Amendment documentation for Council's further consideration prior to advertising (after reference to the Department of the Environment).*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.6 SCHEME AMENDMENT - PROPOSED REZONING OF LOT 25 AUSTRAL PARADE FROM 'SHOPPING CENTRE' AND 'MIXED BUSINESS' TO 'RESIDENTIAL R30' (WAS LISTED AS ITEM 11.7 ON THE MEETING AGENDA)**

<b>File Ref:</b>	A02561
<b>Applicant/Proponent:</b>	Harley Survey Group
<b>Author:</b>	Teshome Tadesse, Planning Officer
<b>Executive:</b>	Geoff Klem, Executive Manager City Development

**Summary**

The proposal (Amendment 15 to TPS 7) was advertised for public comment following Council's resolution to amend the Scheme by way of rezoning Lot 25 Austral Parade from "Shopping Centre" and "Mixed Business" to "Residential R30". During the advertisement period, no objections were listed against the proposal.

Amendment 15 to TPS7 would remedy the current split zoning designation on the subject land by nominating the subject land to one mutually exclusive zone (Residential R30). Also, from Development Services point of view, the proposed residential zone would comfortably fit in with the surrounding land uses.

**Background**

Council, at its meeting of 31 October 2006, considered Amendment 15 to City's Town Planning Scheme No.7 and resolved as follows:

*"Council, under and by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005(as amended), hereby resolves to amend Town Planning Scheme No. 7 by rezoning Lot 25 Austral Parade in Bunbury from "Shopping Centre" and "Mixed Business" to "Residential R30"."*

Following the resolution by Council, the amendment was advertised for 42 days as required. At the end of the advertisement period, no public submissions recorded either in support or objection to Amendment 15. Only three submissions were received from service authorities such as Water Corporation, Aqwest, and Western Power all of which have no objection to the proposed Amendment 15.

**Attached** at Appendix 6 is the location plan

The proposal is to rezone Lot 25 Austral Parade from "Mixed Business" and "Shopping Centre" to "Residential R30".

The core elements of the proposal are: 1) the present split zoning designation of the subject land (“Mixed Business” and “Shopping Centre” zones) has no sound planning justification to remain that way indefinitely 2) the subject land as a local centre cannot perform its function given that there are commercial sites within close proximity to the site, especially the influence of the Leschenault Quays considered significant, as the services provided on this site are similar in scale and mix, as it would be expected in a local centre situation.

The applicant has provided the following justifications in relation to Amendment 15 to TPS 7:

- The success of commercial development on the site is hampered by its proximity to a delicatessen and a mini mart located in the Leschenault Quays commercial centre and the size and prominence of the nearby Bunbury Forum;
- The previous delicatessen operator struggled to attract sufficient patronage and was forced to close. This highlights the vulnerability of the site being used for commercial purposes;
- The existing building that accommodates the St Vincent De Paul Society Depot is in poor condition and is generally an unsightly building. The proposed rezoning will ultimately result in a redevelopment of the site involving the replacement of the existing buildings with new residential dwellings and thereby making a positive contribution to the local streetscape.
- The rezoning will enable the St Vincent De Paul Society to relocate its Depot to a more modern building in a more central part of Bunbury.

**Attached** at Appendix 7 is a Scheme Amendment Map showing the existing and proposed rezoning of the subject land.

### **Current Zoning**

Lot 25 Austral Parade is under split zoning of “Mixed Business” and “Shopping Centre” under TPS7. The split zoning designation on the subject land reflects the land use at the time of the gazettal of TPS 7 i.e. delicatessen on the northeast portion and Warehouse (Depot) on the Southeast portion. At present, the delicatessen is no more operational (closed) and that the Vincent De Paul warehouse is in dilapidated condition.

No recorded justifications have been cited as to how the two mutually exclusive zones nominated on the subject land except to say that it is a reflection of the then land use mix on-site. From practical point of view, it would be complicated if not difficult to apply development controls on a given parcel of land while it is under two mutually exclusive zones. It is considered appropriate to take this opportunity to rectify the dual zoning dilemma by rezoning the subject land to Residential R30.

### **Lot 25 Austral Parade as a Local Centre**

It is noted that the Bunbury-Wellington Region Plan (1995) identifies the subject site as Burt Street Minor local centre. As well, the City's Commercial Strategy nominates the site as a Local Centre. At present, the status of commercial strategies at a regional level and at a local level is simply at work in progress stage. At the regional level, the Western Australian Planning Commission is preparing a Greater Bunbury Interim Commercial Strategy (likely to focus on district and neighbourhood centres). At the local level, the City is committed to reviewing its Local Planning Policy – Commercial Strategy.

As mentioned earlier, one of the core arguments by the applicant is the viability of the site as a local centre. This local centre (the subject of the Amendment) is located in close proximity with Leschenault Quays and Bunbury Forum. In particular, it is considered that the Leschenault Quays site can provide services similar to scale and character to that of a local centre and therefore the area will not be significantly impacted by the loss of the Burt Street local centre (at present it is not operational).

### **Proposed Zoning**

The proposed zoning is "Residential - R30". As per Table 1 of the Residential Design Codes (2002), the area requirements of the R30 density are 300m<sup>2</sup> and 270m<sup>2</sup> average and minimum respectively. In the consideration of the average area requirement applicable under the density, the subject land is capable of development for six dwellings (in theory).

The assessment of the land use mix in the surrounding area reveals that the subject land is predominantly surrounded by residential use with density ranging from R15 to R40 with R30 density to the immediate locality surrounding the subject land. It is considered that rezoning of the subject land to the R30 density would create distinct demarcation between the different densities in the area, as it will be part of the area that will be bounded by Burt Street in the east Forrest Street in the south Austral Parade in the north and Buswell Street in the west. The proposed R30 density is, therefore, supported.

### **Strategic Outcomes**

Council's 2002 – 2007 Strategic Plan states that Bunbury City Council has a goal to "Have a built environment which is safe, accessible, functional, attractive and sympathetic with the natural environment." To achieve this goal, undertaking assessment and approvals of all development proposals in line with the Town Planning Scheme is one of the strategies specified under the Council's 2002 – 2007 Strategic Plan.

The recommendation has had regard to Council's 2002-2007 Strategic Plan.

### **Community Consultation**

Amendment 15 was advertised for public comment in accordance with the requirements of the Planning and Development Act 2005 (as amended). Council must take into account submissions received during the advertisement period prior to final adoption of the amendment. The submissions and Scheme Amendment documents are then referred to the Western Australian Planning Commission for final approval by Hon. Minister for Planning and Infrastructure.

### **Councillor/Officer Consultation**

Discussions have been undertaken with Technical Officers within Development Services in relation to the proposed Amendment.

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

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

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

Development of the site for six residential units would contribute to the housing supply in the City.

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

### **Council Policy Compliance**

The proposal complies with the requirements of Local Planning Policies under TPS No 7. "Scheme Amendments: Application Requirements and Documentation for Purposes of Advertising", and "Commercial Strategy" are relevant in this case.

### **Legislative Compliance**

In accordance with the provisions of the Planning and Development Act 2005 (as amended), upon completion of advertising, the amendment documentation is referred back for consideration. Should Council then resolve to adopt the amendment, the documentation is referred back to the WAPC for assessment and endorsement and for referral to the Hon. Minister for Planning and Infrastructure for final approval.

### **Delegation of Authority**

The adoption of a Scheme Amendment is by the decision of Council.

### **Relevant Precedents**

There are no known exactly the same rezoning proposal.



## **Possible Options**

### Option 1

Per the recommendation listed in this report.

### Option 2

Refuse the rezoning proposal. Should Council resolve to proceed with this option, the recommendation should read as follows:

*"Council, under by virtue of the powers conferred upon it in that behalf of the Planning and Development Act 2005 (as amended) here by resolves to refuse the proposal to rezone Lot 25 Austral Parade, East Bunbury, from 'Shopping Centre' and 'Mixed Business' to 'Residential R30', as the current split zones are appropriate and consistent with the current zoning."*

## **Conclusion**

The proposed Amendment 15 to TPS 7 can be supported, as it nominates one exclusive "Residential R30" zone on the subject land. It is also considered that the proposed residential use is consistent with the surrounding land uses.

## **Recommendation**

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

1. Amend Town Planning Scheme No.7 by rezoning Lot 25 Austral Parade, East Bunbury from "Shopping Centre" and "Mixed Business" to "Residential R30".
2. Advise the applicant to liaise with Aqwest regarding water main upgrade requirement in connection to the proposed rezoning to "Residential R30".
3. Advise the applicant and service authorities (submitters) of Council decision.

## **Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Frisina, seconded Cr T Smith.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Leigh.

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

**COUNCIL DECISION 98/07**

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

1. *Amend Town Planning Scheme No.7 by rezoning Lot 25 Austral Parade, East Bunbury from "Shopping Centre" and "Mixed Business" to "Residential R30".*
2. *Advise the applicant to liaise with Aqwest regarding water main upgrade requirement in connection to the proposed rezoning to "Residential R30".*
3. *Advise the applicant and service authorities (submitters) of Council decision.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.7 AUSTRALIND BYPASS - PROPOSED TRANSFER OF LAND TO THE STATE OF WESTERN AUSTRALIA AND ITS DEDICATION AS A ROAD** (*WAS LISTED AS ITEM 11.8 ON THE MEETING AGENDA*)

<b>File Ref:</b>	R00707
<b>Applicant/Proponent:</b>	Main Roads WA
<b>Author:</b>	Beatrice Plant, Senior Engineer - Program & Asset Management
<b>Executive:</b>	Michael Scott, Executive Manager City Services

**Summary**

Pursuant to Section 56 of the *Land Administration Act 1997* it is proposed that Council:

1. Approve the transfer of properties registered in the name of the Commissioner of Main Roads to the State of Western Australia, and;
2. approve dedication of those properties as a "Road".

A location plan is **attached** at Appendix 15.

**Background**

From the mid 1970's to date, Main Roads WA has been acquiring land for the Perth to Bunbury Highway (known locally as the Australind Bypass).

Properties that are currently registered in the name of the Commissioner of Main Roads now need to be transferred into the name of the State of Western Australia and dedicated as "Road". Before excision and dedication of the land can proceed however, the Department for Planning and Infrastructure requires a decision of the Council stating that it concurs with the transfer and dedication of the land.

In its correspondence of 18 April 2007, Main Roads WA indemnified the City of Bunbury against all costs and charges with respect to the dedication action - a copy is **attached** at Appendix 16).

**Strategic and/or Regional Outcomes**

There are no strategic or regional outcomes to consider.

**Community Consultation**

Action taken under Section 56 of the *Land Administration Act 1997* requires no community consultation.

### **Councillor/Officer Consultation**

The City's Executive has considered the proposal and has no objection to the transfer and dedication.

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

Main Roads WA has indemnified the City against all costs and charges in respect of the proposed land transfer and dedication thus there will be no detrimental effect on the City's Annual Budget.

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

The proposed land transfer and dedication will have no economic, social, environmental or heritage implications for the City of Bunbury.

### **Council Policy Compliance**

No Council policy applies.

### **Legislative Compliance**

To permit the proposed land transfer and dedication to proceed, the Council is required to comply with the *Land Administration Act 1997* (Section 56) whereby the local government requests the Minister to dedicate as a "Road" land which is reserved, or acquired for use by the public, or is used by the public, as a road.

### **Delegation of Authority**

The Department of Planning and Infrastructure requires the consent of the Council via a formal Council decision, to instigate transfer of the subject land to the State of Western Australia and its subsequent dedication as "Road".

### **Relevant Precedents**

At its meeting on 11 July 2006, the Council resolved to excise a portion of Reserve 670 and request the Minister to dedicate it as "Road" (Robertson Drive).

### **Options**

#### Option 1

Per the recommendation listed in this report.

Option 2

Council may elect not to concur with the request from the Department for Planning and Infrastructure for a formal decision consenting to transfer of the subject land to the State of Western Australia and dedication of that land as "Road".

**Conclusion**

The subject land falls under the jurisdiction of the Commissioner of Main Roads. The Perth to Bunbury Highway (or Australind Bypass) has already been constructed - refer to the location plan **attached** at Appendix 15. It is now a requirement for the land to be transferred into the name of the State of Western Australia but before this can proceed, Section 56 of the *Land Administration Act 1997* requires that the Department for Planning and Infrastructure receive a formal decision from Council, consenting to the transfer of land and its dedication as a "Road".

Main Roads WA has indemnified the City against all costs and charges in respect to the dedication; therefore, there will be no detrimental effect on the City's Annual Budget as a result of the proposed transfer and dedication.

It should be noted that specific wording (as set out in the recommendation below) is required.

**Recommendation**

1. Council concurs to the dedication of the land contained in Main Roads Drawings Sheets 6 and 7 as "Road" under Section 56 of the *Land Administration Act 1997*.
2. Council notes that this is a procedural requirement by the Department of Planning and Infrastructure and that the City of Bunbury has been reciprocally indemnified by Main Roads WA.

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Frisina, seconded Cr Rooney.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Leigh.

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

**COUNCIL DECISION 99/07**

1. *Council concurs to the dedication of the land contained in Main Roads Drawings Sheets 6 and 7 as "Road" under Section 56 of the Land Administration Act 1997.*
2. *Council notes that this is a procedural requirement by the Department of Planning and Infrastructure and that the City of Bunbury has been reciprocally indemnified by Main Roads WA.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.8 SOUTH WEST SPORTS CENTRE - OPERATIONS AND FINANCIAL REPORTS FOR APRIL 2007** *(WAS LISTED AS ITEM 11.9 ON THE MEETING AGENDA)*

<b>File Ref:</b>	F00111
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, City Accountant
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

This report is to advise Council on the operational and financial performance of the South West Sports Centre ("SWSC").

The City has been provided with an Operations Report for April 2007 from Belgravia Leisure. The report includes information on attendances, income and expenditure, marketing initiatives, an overview of programs, customer feedback, incidents, maintenance and staff training.

A Financial Report for the SWSC prepared by Council's Accounting Services Department to 30 April 2007, has also been prepared. Overall the SWSC has a net operating result (i.e. income less expenditure) of \$69,000 better than budget to 30 April 2007. Revenues are up \$34,000 and expenditure \$35,000 less than budgeted for the eight months to the end of April 2007.

Both reports have been provided to members under separate cover.

The net operating result favourable variance of \$69,000 to 30 April 2007 is a decline from the previous month of \$82,000. In consultation with the Centre Manager an explanation for this decline is provided in the Operations Report on Pages 3 & 4, Item 2. The Centre Manager advises that during the months of May and June a television promotion is planned to encourage increased sales and that the forecasted favourable variance to budget of approximately \$135,000 to 30 June 2007 will be achieved.

This favourable net operations result has allowed additional repairs and maintenance (\$28,000) to be carried out at the SWSC, new cleaning machinery purchased (\$21,000), a new telephone system (\$15,000) ordered for installation in May/June 2007, and a consultant report on management models prepared (\$26,000) - a total of \$90,000.

**Background**

The SWSC is currently under an interim management arrangement until 30 June 2007 with Belgravia Leisure Pty Ltd (which commenced management of the SWSC on 1 September 2006).

Council resolved at the Council Meeting on 1 May 2007, to assume in-house management of the SWSC from 1 July 2007. The Corporate Services Division is liaising with the SWSC management team to implement a coordinated transition to the City.

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

The South West Sport Centre supports Council's Strategic Plan of having diverse recreational and leisure opportunities. The SWSC provides a comprehensive range of facilities and services to the local community and the South West Region.

### **Community Consultation**

Council's decision to receive the operations and financial reports for the South West Sports Centre will not impact the community and will not require community consultation.

### **Councillor/Officer Consultation**

Council adopted the 2006/2007 Budget for the South West Sports Centre at the Council Meeting on 21 November 2006.

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

Summary of the Financial Report for the SWSC to 30 April 2007

	<b>Budget 1/9/06-30/6/07</b>	<b>Budget 1/9/06-30/4/07</b>	<b>Actual 1/9/06-30/4/07</b>	<b>Variance</b>
Operating Income	\$1,822,033	\$1,469,621	\$1,503,910	\$34,289
Operating Expenditure	\$2,132,952	\$1,736,841	\$1,701,473	\$(35,368)
Operating Deficit	\$310,919	\$267,220	\$197,563	\$69,657

The financial report to 30 April 2007 shows a favourable actual to budget-to-date variance of \$69,657. The forecast to 30 June 2007 is a favourable variance to budget of approximately \$135,000.

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

The South West Sports Centre employs 62 staff members and provides opportunities for an additional 10 staff on a seasonal basis.

### **Council Policy Compliance**

Council's decision to receive the operations and financial reports of the South West Sports Centre would not contravene any Council policies.



### **Legislative Compliance**

The preparation of an operations and financial report for the South West Sports Centre is not required under any legislation.

### **Delegation of Authority**

No delegated authority applies.

### **Relevant Precedents**

Council has previously received operations and financial reports for the South West Sports Centre.

### **Options**

#### Option 1

The South West Sports Centre Operations and Financial Reports for April 2007, be received.

#### Option 2

The South West Sports Centre Operations and Financial Reports for April 2007, not be received.

### **Conclusion**

The Operations and Financial Reports to April 2007 are provided to inform councillors on the performance of the South West Sports Centre.

### **Recommendation**

The South West Sports Centre Operations and Financial Reports for April 2007, be received.

### **Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Jones, seconded Cr Wenn.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Major, seconded Cr Leigh.

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

**COUNCIL DECISION 100/07**

*The South West Sports Centre Operations and Financial Reports for April 2007, be received.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.9 SOUTH WEST DEVELOPMENT COMMISSION BOARD - ONE LOCAL GOVERNMENT REPRESENTATIVE VACANCY** *(WAS LISTED AS ITEM 11.11 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00380
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Jack Dyson, Senior Administration Officer
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

The South West Development Commission Board is seeking nominations from member Local Authorities to fill one (1) Local Government Representative vacancy. As nominations closed on Friday 27 April 2007, Councillor Rooney has already lodged his nomination.

**Background**

Information has been received from the South West Development Commission advising of one (1) Local Government Representative vacancy on the board due to the resignation of former Councillor, Ms Helen Shervington.

Nominations to fill this vacancy were invited from all South West Local Governments.

**Strategic and/or Regional Outcomes**

This proposal can be linked to Strategic Objective 1, Strategy 1.3, *“Establish support with key third party/industry groups regarding infrastructure requirements for Bunbury and the South West”*.

**Community Consultation**

There is no need for community consultation in this instance as nominations are required from sitting elected members of representative councils.

**Councillor/Officer Consultation**

Councillors were informed of this vacancy via memorandum dated 27 March 2007. This report updates Council and advises that Councillor Rooney has indicated a desire to be nominated on this Board.

**Analysis of Financial and Budget Implications**

This proposal will not impact on Council’s financial and budgetary implications.

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

The South West Development Commission Board is the governing body responsible to the South West Minister for setting the direction of the Commission.

It has 10 members selected from community and local government nominations, ministerial appointments and the Commission's Chief Executive Officer and is responsible for making decisions on the strategic direction and priorities of the Commission.

Board members are appointed for one, two or three year terms as determined by the Minister.

The Board's primary activities include:

- Setting the overall strategic direction and goals of the Commission
- Providing guidance on specific projects and initiatives
- Formulating Commission policy
- Reviewing progress at regular intervals to ensure established goals are being achieved
- Monitoring Commission expenditure
- Promoting economic development
- Representing the Commission at relevant meetings and functions
- Providing a conduit between the Commission and the community
- Facilitating cooperation between organisations in the region

### **Council Policy Compliance**

There is no existing Council policy relevant to this issue.

### **Legislative Compliance**

The Minister for Education and Training through a merit-based nomination process, will coordinate nominations for this position.

### **Delegation of Authority**

The Chief Executive Officer does not have delegated authority to submit nominations of this nature.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council may elect not to endorse the nomination of Councillor Rooney to fill the vacancy on the South West Development Commission Board.

**Conclusion**

A Council Decision is required on whether Council wishes to be represented on the South West Development Commission Board.

**Recommendation**

The Minister for Education and Training to be advised that Council endorses the nomination of Councillor Rooney to fill the vacancy on the South West Development Commission Board.

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Craddock, seconded Cr Jones.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

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**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Frisina, seconded Cr Major.

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

**COUNCIL DECISION 101/07**

*The Minister for Education and Training be advised that Council endorses the nomination of Councillor Rooney to fill the vacancy on the South West Development Commission Board.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.10 REDUCTION IN NUMBER OF COUNCIL RECESS PERIODS** (WAS LISTED AS ITEM 11.12 ON THE MEETING AGENDA)

<b>File Ref:</b>	A00221
<b>Applicant/Proponent:</b>	Councillor Craddock
<b>Author:</b>	Councillor Craddock
<b>Executive:</b>	<i>If adopted by Council refer to:</i> Greg Trevaskis, Chief Executive Officer

Cr Craddock had given notice that he intended to move the following motion at the Council Committee Meeting on 15 May 2007:

*"As of January 2008, the Bunbury City Council to adopt a new policy regarding Council recesses that allows for only two recesses per year in the annual meeting schedule, rather than the current four recesses."*

**Comments - Cr Craddock**

In support of his motion, Cr Craddock stated that, *"Currently, the Council is in recess for 12 weeks per year i.e., 23% of the year. I believe this is too long. We have a 6-week break at Christmas and 2-week breaks in the April, July and October school holidays. The effect of this is that consideration of (and decisions on) important matters are sometimes taking too long. I believe the 6 extra weeks available for briefings, committee meetings and council meetings would give more time to properly consider issues and mean that, in particular, our briefing sessions may not be as crowded as they sometimes are now."*

**Executive Comments**

Nil.

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Craddock, seconded Cr Jones to become the motion under discussion.

Cr Craddock indicated that before drafting this motion he had contacted a number of other local authorities for a comparison including Kalgoorlie-Boulder, Geraldton, Busselton, Albany, Mandurah, Melville and Perth. His survey revealed that most of these authorities had only one recess per year over the Christmas/New Year period and that the City of Mandurah has no formal recess periods at all.

The following points were raised during discussion of this subject:

- Councillors and Executive staff at the City of Bunbury meet once per week either at a Council Committee Meeting, a Council Meeting or a briefing session. The other authorities surveyed by Cr Craddock may meet only once or twice per month
- As Council elections are scheduled for later during the year it is inappropriate for this Council to consider putting restrictive policies in place for the next Council.
- More information should be provided by the Executive Staff.

The Chief Executive Officer indicated that:

- There is definitely the opportunity to schedule an additional meeting of the Council in January each year.
- Executive Staff will support the Council's decision whatever it might be.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

#### **Committee Recommendation**

As of January 2008, the Bunbury City Council to adopt a new policy regarding Council recesses that allows for only two recesses per year in the annual meeting schedule, rather than the current four recesses.

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#### **AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Frisina, seconded Cr Major.

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

<p><b>COUNCIL DECISION 102/07</b></p>
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<p><i>As of January 2008, the Bunbury City Council to adopt a new policy regarding Council recesses that allows for only two recesses per year in the annual meeting schedule, rather than the current four recesses.</i></p>
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<p><b>CARRIED</b></p>
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<p><b>10 Votes "For" / Nil Votes "Against"</b></p>
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**11.11 LAND RATIONALISATION PLANNING - INVITATION FOR COUNCILLOR PARTICIPATION** (WAS LISTED AS ITEM 11.13 ON THE MEETING AGENDA)

<b>File Ref:</b>	A00420
<b>Applicant/Proponent:</b>	Councillor Craddock
<b>Author:</b>	Councillor Craddock
<b>Executive:</b>	<i>If adopted by Council refer to:</i> Ken Weary, Executive Manager Corporate Services

Cr Craddock had given notice that he intended to move the following motion at the Council Committee Meeting on 15 May 2007:

*"Cr \_\_\_\_\_ and Cr \_\_\_\_\_ be appointed to join the Executive Working Group to review Council's land rationalisation programmes."*

**Comments - Cr Craddock**

In support of his motion, Cr Craddock stated that, *"Council's Executive continually reviews the City's land rationalisation programmes and a number of properties are currently being processed by way of subdivision and rezoning. New properties (when identified) are referred for Council's consideration."*

*Councillors have expressed an interest in participating in the Executive Working Group and I propose that two (2) councillors be appointed to the Executive Working Group for Land Rationalisation."*

**Executive Comments**

The City's Executive supports Cr Craddock's proposal.

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Craddock, seconded Cr Frisina. During discussion, Crs T Smith and Dillon were nominated to attend meetings of the Executive Staff to discuss land rationalisation.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**Committee Recommendation**

Cr T Smith and Cr Dillon be appointed to the Executive Staff's Working Group to review Council's land rationalisation programmes.



**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Frisina, seconded Cr Major.

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

**COUNCIL DECISION 103/07**

*Cr T Smith and Cr Dillon be appointed to the Executive Staff's Working Group to review Council's land rationalisation programmes.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**

**11.12 ITEMS NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING OF 15 MAY 2007** (WAS LISTED AS ITEM 11.14 ON THE MEETING AGENDA)

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

A report was circulated to members under separate cover.

**Outcome of the Council Committee Meeting - 15 May 2007**

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

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Frisina, seconded Cr Major.

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

**COUNCIL DECISION 104/07**

*The following items subject of a report circulated to Council Members under separate cover, are noted for information only:*

- 1. Title: Minutes - Bunbury Setagaya Sister Cities Committee Meetings - 7/3/07 & 4/4/07*  
*Author: Sandra Goerling, Sister City Officer*  
*File: A00443*
- 2. Title: Strategic Plan July 2007 to June 2009 - Bunbury Setagaya Sister Cities Committee*  
*Author: Sandra Goerling, Sister City Officer*  
*File: A00443*
- 3. Title: Update - Petition Concerning Nash Street Kerbing and Maintenance of Ken Cantwell Park*  
*Author: Beatrice Plant, Senior Engineer - Program & Asset Management*  
*File: F00101*

4.    *Title:     Accounts for Payment - April 2007*  
      *Author:  David Ransom, City Accountant*  
      *File:     A00083*
  
5.    *Title:     Minutes - City of Bunbury Audit Committee - 8/05/2007*  
      *Author:  David Ransom, City Accountant*  
      *File:     A00084*

**CARRIED**  
**10 Votes "For" / Nil Votes "Against"**

**11.13 PROPOSED COMPULSORY ACQUISITION OF LAND REQUIRED FOR STUART STREET WIDENING** *(WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA)*

<b>File Ref:</b>	R00450
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	Beatrice Plant, Senior Engineer - Program & Asset Management
<b>Executive:</b>	Michael Scott, Executive Manager City Services

**Summary**

It is proposed to formally request the Minister for Lands to compulsorily acquire portions of two properties in Stuart Street to accommodate planned road widening.

Council has allocated funds for both the acquisition of land and engineering works associated with the widening of Stuart Street in the Bunbury CBD and negotiations have been undertaken with all landowners involved. The negotiating team includes City officers, a valuer engaged by the City and representatives from law firm, McLeods.

At the time of writing this report all but two of the property owners have negotiated successful purchases. The two properties where it has not been possible to negotiate a purchase are 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.

It is considered that negotiations have been taken as far as they reasonably can without agreement being able to be achieved and it is now necessary for the Council to resolve to formally request the Minister for Lands to compulsorily acquire the portions of the two remaining subject properties.

**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 needs to be acquired from affected landowners and negotiations have been undertaken accordingly. These negotiations have involved City officers, a valuer engaged by the City and representatives from law firm, McLeods. To date, land has been successfully acquired from all but two of the affected landowners. The two properties where it has not yet been possible to negotiate a purchase are 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. See plans **attached** at Appendices 1 and 2.

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

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

The acquisition of land from Lot 89 (No.18) Bourke Street and Lot 88 (No. 11) Stuart 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 has funds allocated in the 2006/2007 budget for the resumption of land along Stuart Street. The budget allocation for the Stuart Street Widening/Resumption of Land is \$291,691.00.

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

The proposed compulsory acquisition does not involve any economic, social, environmental or heritage implications.

### **Council Policy Compliance**

No Council policy applies.

### **Legislative Compliance**

Pursuant to Part 9, Div 3, Subdivision 2 of the *Land Administration Act 1997* the Council is required to request the Minister for Lands (by formal Council Decision) to compulsorily acquire land for public works where negotiations have failed.

### **Delegation of Authority**

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

### **Relevant Precedents**

A relevant precedent cannot be provided. The City has acquired land on many occasions for public works but compulsory acquisition has not been required in the past.

### **Options**

#### Option 1

Per the recommendation listed in this report.

#### Option 2

Council may elect not to request the Minister for Land to compulsorily acquire the land necessary to permit widening of Stuart Street.

## **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* that was adopted by Council in 2003 and negotiations have resulted in the land required being successfully purchased from all but two of the affected landowners. As negotiations with the outstanding landowners have failed, McLeods advises that the next course of action is for the Council to resolve to request the Minister for Lands that the land to be acquired compulsorily.

To reduce costs and the inevitable disruption to the public, it is proposed the road-widening project be undertaken at the same time as installation of traffic signals at the Stuart/Spencer Street intersection for which the City has received funding from the Regional Road Group.

## **Recommendation**

- 1 Pursuant to Part 9, Division 3, Subdivision 2 of the *Land Administration Act 1997* Council requests the Minister for Lands to compulsorily acquire the following land for the purpose of widening Stuart Street:
  - 1.1 Portion of Lot 88 on Plan 1708 as shown marked "road widening" on the plan titled "Deposited Plan 49797".
  - 1.2 Portion of Lot 89 on Plan 1708 as shown marked "road widening" on the plan titled "Deposited Plan 49798".
- 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 - 15 May 2007**

Cr Frisina disclosed an impartiality interest as one of the blocks of land involved is owned by his relative. He elected to leave the meeting for the duration of discussion and the vote on this matter.

Cr Rose disclosed an impartiality interest as Mr Princi is one of her business contacts. She elected to remain at the meeting and take part in vote on this matter.

The recommendation was moved Cr T Smith, seconded Cr Jones.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

Cr Rose disclosed an impartiality interest as she has had previous business dealings with Mr Princi. She elected to remain at the meeting to take part in the discussion and the vote for this item.

Cr Frisina disclosed an impartiality interest as one of the blocks of land involved is owned by his relative. He elected to leave the meeting at 6.05pm for the duration of discussion and the vote for this item.

The Committee's recommendation was moved Cr T Smith, seconded Cr Major.

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

**COUNCIL DECISION 105/07**

*1 Pursuant to Part 9, Division 3, Subdivision 2 of the Land Administration Act 1997 Council requests the Minister for Lands to compulsorily acquire the following land for the purpose of widening Stuart Street:*

*1.1 Portion of Lot 88 on Plan 1708 as shown marked "road widening" on the plan titled "Deposited Plan 49797".*

*1.2 Portion of Lot 89 on Plan 1708 as shown marked "road widening" on the plan titled "Deposited Plan 49798".*

*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.*

**CARRIED**

**9 Votes "For" / Nil Votes "Against"**

Cr Frisina returned to the meeting at 6.06pm.



**11.14 APPOINTMENT OF AUDITOR FOR THE CITY OF BUNBURY AND BUNBURY-HARVEY REGIONAL COUNCIL** *(WAS LISTED AS ITEM 11.10 ON THE MEETING AGENDA)*

<b>File Ref:</b>	A00084
<b>Applicant/Proponent:</b>	Internal Report
<b>Author:</b>	David Ransom, City Accountant
<b>Executive:</b>	Ken Weary, Executive Manager Corporate Services

**Summary**

It is necessary that the accounts and annual financial reports of a local government for each financial year are audited by an auditor appointed by the local government. The term for Council's existing auditor (Mr Tim Partridge, AMD Chartered Accountants) has expired. Council is now required to appoint an auditor or re-appoint the current auditor.

Tenders were called for the provision of external audit services for 5 years from 2006/2007 to 2010/2011 for the City of Bunbury and Bunbury Harvey Regional Council (as the City provides accounting services to the BHRC).

Council's Audit Committee met on 8 May 2007 to review the three tenders received and recommends to Council that Mr Tim Partridge from AMD Chartered Accountants be re-appointed.

**Background**

At the Council Meeting on 6 March 2007, Council made the following decision:

- 1. Council advertise the "Request for Tender" for the Provision of Audit Services for the five financial years 2006/2007 to 2010/2011, in the South Western Times and The West Australian newspapers.*
- 2. The Council's Audit Committee to evaluate the tenders received for the provision of audit services and report to Council with a recommendation for appointment of an auditor for the City of Bunbury and Bunbury-Harvey Regional Council\* for the five financial years 2006/2007 to 2010/2011.*

*(\* Note: Appointment of an auditor for the Bunbury-Harvey Regional Council is subject to endorsement by that Council.)*

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The Request for Tender for the Provision of Audit Services was advertised in *The West Australian* on 14 March 2007 and in the *South Western Times* on 15 March 2007. Tenders closed on 4 April 2007.

Tenders were received from the following firms:

1. AMD Chartered Accountants, Bunbury
2. Grant Thornton WA Partnership, Perth
3. UHY Haines Norton Chartered Accountants, Osborne Park

Council's Audit Committee met on 8 May 2007 to review tenders received (a copy of the Audit Committee minutes is included in the *Items to be Noted* report circulated together with this agenda). Members of the Audit Committee are His Worship the Mayor - Mr David Smith, Councillor Wayne Major and Councillor Alfred Leigh.

Tenders were assessed on the general and corporate information supplied, compliance and qualitative criteria and price. A confidential report has been issued to Councillors under separate cover providing a summary of the tender assessment.

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

Appointment of an auditor satisfies the City's Strategic Plan 2007-2012 to have open and accountable management of Council's statutory and legislative requirements, as well as ensuring compliance to statutory obligations.

### **Community Consultation**

Appointment of an auditor is a legislative requirement and community consultation is not required. The Request for Tender for the Provision of Audit Services was advertised in *The West Australian* on 14 March 2007 and in the *South Western Times* on 15 March 2007.

### **Councillor/Officer Consultation**

Council's Audit Committee met on 8 May 2007 to evaluate the tender documents for the provision of audit services and has reported to Council with a recommendation for Council's consideration. Executive Management supports the Audit Committee's recommendation.

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

Audit Fees form part of Council's Annual Budget.

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

The appointment of Mr Tim Partridge from AMD Chartered Accountants, Bunbury, supports local business. The appointment of an auditor does not have any social, environmental or heritage issues.

### **Council Policy Compliance**

The proposal does not contravene any Council Policy.

### **Legislative Compliance**

The proposal complies with Part 7, Division 2 “Appointment of Auditors”, of the Local Government Act 1995.

### **Delegation of Authority**

Nil

### **Relevant Precedents**

Council has previously appointed auditors for the City of Bunbury and Bunbury Harvey Regional Council.

### **Options**

#### Option 1

Per Audit Committee Recommendation.

#### Option 2

Council may appoint an alternative auditor for the City of Bunbury and Bunbury-Harvey Regional Council.

### **Conclusion**

The appointment of an auditor for a 5-year period ensures that auditors are engaged to commence the interim audits in June 2007 for the 2006/2007 financial year. The Audit Committee's recommendation is provided below.

### **Recommendation**

1. Council appoint Mr Tim Partridge from AMD Chartered Accountants, Bunbury as Auditor of the City of Bunbury for the five (5) financial years from 2006/2007 to 2010/2011 inclusive.
2. Council appoint Mr Tim Partridge from AMD Chartered Accountants, Bunbury as Auditor of the Bunbury-Harvey Regional Council for the five (5) financial years from 2006/2007 to 2010/2011 inclusive, subject to endorsement by the Bunbury Harvey Regional Council.
3. The tender price from AMD Chartered Accountants for audit services be recorded in the minutes of the Council Meeting.

**Outcome of the Council Committee Meeting - 15 May 2007**

The recommendation was moved Cr Jones, seconded Cr Leigh.

The Presiding Member put the motion to the vote and it was adopted to become the Committee's recommendation on this issue.

**AT THE COUNCIL MEETING**

The Committee's recommendation was moved Cr Jones, seconded Cr Frisina.

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

**COUNCIL DECISION 106/07**

1. *Council appoint Mr Tim Partridge from AMD Chartered Accountants, Bunbury as Auditor of the City of Bunbury for the five (5) financial years from 2006/2007 to 2010/2011 inclusive.*
2. *Council appoint Mr Tim Partridge from AMD Chartered Accountants, Bunbury as Auditor of the Bunbury-Harvey Regional Council for the five (5) financial years from 2006/2007 to 2010/2011 inclusive, subject to endorsement by the Bunbury Harvey Regional Council.*
3. *The tender price from AMD Chartered Accountants for audit services be recorded in the minutes of the Council Meeting.*

**CARRIED**

**10 Votes "For" / Nil Votes "Against"**  
**Absolute Majority Vote Attained**

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

Nil.

**13. "URGENT" BUSINESS WITH THE APPROVAL OF THE MAJORITY OF MEMBERS PRESENT**

Nil.

**14. ITEMS TO BE NOTED (NO DISCUSSION)**

There were no new items for noting.

**15. CONFIDENTIAL BUSINESS AS STIPULATED UNDER SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995**

Nil.

**16. CLOSURE OF MEETING**

There being no further business the Mayor declared the meeting closed at 6.08pm.

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CONFIRMED this day 12 June 2007 to be a true and correct record of proceedings of the Bunbury City Council Meeting held 22 May 2007.

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**MR DAVID SMITH**  
**MAYOR**