



11 March 2008

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GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment

Term	Explanation
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.
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

Term	Explanation
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

COUNCIL (STANDING) COMMITTEE MINUTES

An Ordinary Meeting of the Council (Standing) Committee was held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 11 March 2008.

MINUTES

11 March 2008

NOTE: The committee recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the Council Meeting on 18 March 2008.

1. DECLARATION OF OPENING BY THE PRESIDING MEMBER

The Presiding Member, His Worship the Mayor - Mr David Smith, declared the meeting open at 6.00pm.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Members:	Councillor J Jones
	Councillor T Dillon
	Councillor S Rooney
	Councillor L Worthington
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck (<i>arrived 6.15pm - Item 11.2</i>)
Councillor A Leigh	
Executive Management Team (Non-Voting)	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Mr D Marzano
Council Officers (Non-Voting):	
Manager Development Services:	Mr G Fitzgerald
Planning Consultant:	Mr P Davies
Recreation Planner:	Mr B Carlsen
Administration Officer Corporate Services:	Ms D Ryan

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Minutes - Council Committee Meeting

PRESENT

Others (Non-Voting):	
Members of the Public:	7 (approx.)
Members of the Press:	2

APOLOGIES:

Cr Major - Leave of Absence 3 March to 6 April 2008

Deputy Presiding Member - Cr Craddock - Leave of Absence 3 to 12 March 2008

Cr Kelly - Leave of Absence 7 to 24 March 2008

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

Not applicable.

4. **PUBLIC QUESTION TIME**

Nil.

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

Nil.

6. CONFIRMATION OF PREVIOUS MINUTES

Cr Dillon moved, Cr Jones seconded the recommendation. It was put to the vote and adopted to become the Committee's decision on this matter.

Committee Decision

The minutes of the Council (Standing) Committee Meeting held 19 February 2008, be confirmed as a true and accurate record.

CARRIED

9 Votes "For" / Nil Votes "Against"

7. DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995

Mayor David Smith disclosed an impartiality interest in the item titled *"Proposed Town Planning Scheme Amendment No. 20 - Rezone Various Portions of Land From 'Parks and Recreation' or 'Public Purpose Reserve' to 'Residential' or 'Industry Zone' "* as Lot 28 Mangles Street adjoins land that is currently subject of a land transaction between the City of Bunbury and Aqwest and he is a member of the Aqwest Board.

Councillor Lorna Worthington disclosed a proximity interest in the item titled *"Proposed Town Planning Scheme Amendment No. 20 - Rezone Various Portions of Land From 'Parks and Recreation' or 'Public Purpose Reserve' to 'Residential' or 'Industry Zone' "* as Lot 28 Mangles Street (subject of the rezoning proposal) adjoins her residential property by way of a common boundary.

Councillor Helen Punch disclosed an impartiality interest in the item titled *"Lease of Portion New Library Building at Lot 512 Parkfield Street, Bunbury for use as an Australian Centre for Digital Innovation ('ACDI')"* as her spouse is the Chief Executive Officer of the South West Development Commission which is involved in the negotiations for the ACDI.

Mayor David Smith disclosed an impartiality interest in the item titled *"Bunbury Inner Harbour Structure Plan"* as he is a director of the Bunbury Port Authority.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Presiding Member indicated that he had circulated to members (for information only) a copy of letters given to him at a meeting of residents of the Ecclestone Street/Barr Road Horse Stable Complex. He had been invited to attend the meeting by the Member for Bunbury - Mr John Castrilli, MLA.

9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS

Nil.

10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS

Nil.

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

NOTE: The meeting actually started with discussion of item 11.2 (Retrospective Planning Approval - Gazebo in Hildas Close, College Grove) but when it became apparent that the applicant was not aware of the officer's recommendation or submissions made by his neighbours, he was given time to read the report before continuing his address to the committee. The committee dealt with Item 11.1 below, while it was waiting.

11.1 PROPOSED RE-DEVELOPMENT OF LOT 2 STEPHEN STREET TO INCLUDE CLOSURE OF NORTHERN SECTION OF WALKER ARCADE - LOT 2 (NO. 35-39) STEPHEN STREET, BUNBURY (WAS LISTED AS ITEM 11.6 ON THE MEETING AGENDA)

File Ref:	P08975
Applicant/Proponent:	Veens Design Drafting Service
Author:	Kevin Townroe, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has recently received a planning application for a re-development proposal that involves, principally, the closure of the northern end of the Walker Arcade at Lot 2 (No. 35-39) Stephen Street in the "City Centre" zone.

The key planning issue relates to the matter of car parking. In accordance with Table No. 2 of the City's Town Planning Scheme No. 7 ("TPS No. 7"), the subject site attracts 8 additional car parking spaces as a result of the proposed development. On the other hand, the Scheme provides that any development up to 2000 sq.m gross floor area in the "City Centre" zone may be exempted from the provision of parking spaces.

The submitted plans show 3 car parking bays. However, two of the 3 bays do not meet the required Australian Standards and all 3 bays are not fully accessible within the ownership of the site. It is therefore considered that there are, essentially, no acceptable car-parking bays provided for this development proposal.

However, this provision of the Scheme is under review along with car parking requirements in the Central Business District (CBD) generally. The City of Bunbury 'Central Business District, Parking Strategy was adopted by Council August 2007. The draft Local Planning Policy, 'Central Business District Parking', dated February 2008 is currently under review and is scheduled to be considered by Council in the near future for adoption. In section 2.9.1 of the draft Local Planning Policy under 'Proposed Clause' it states that *'In exercising its discretion, Council may not require parking for development of less than 500 sq.m GFA.'* and section 2.9.3 (proposed new clause) states that *'Where an existing use and associated building/s form part of a new development for a particular site, current parking requirements under TPS No.7 shall only apply to the new component of the development proposal'.*

Council may wish to consider this application in light of the seriously entertained proposed new Parking Policy document.

On analysis, it is considered that a grant of approval would be in order. It is considered that this action would be generally consistent with recent decision-making by Council whereby Council has determined to waive car-parking deficits in cases where such deficits are relatively minor and where there is likely to be little or no increase in new floor space.

Background

Council will recall its Decision 134/07 at the meeting of 3 July 2007 regarding car-parking requirements in the CBD that states that:

“Prior to the final adoption of a new Local Planning Policy for the CBD, the Council shall exercise full discretion for approval on all Development Applications requiring parking provision on a case-by-case basis.”

It is on this principle therefore that the matter is referred to Council for its consideration.

A location plan is **attached** at Appendix 14.

The proposal would result in the closure of the northern end of the arcade thoroughfare with access to Lot 3 (southern 50% of the arcade) remaining as is, i.e. from Stirling Street. The development would result in a net gain of floor space (by a simple re-configuration of existing space) of 160 sq.m with a further 78 sq.m being converted from thoroughfare/walkway to parking area (not to Australian Standards). The existing shop floor space is 481 sq.m and when combined with the proposed gain of 160 sq.m would create a total of 636 sq.m. The parking requirement would be 8 bays (Table No.2 TPS.7). However, this application is unusual by comparison, by virtue of it being an existing retail arcade with existing floor space and would essentially simply involve the internal re-configuration of walling. It is therefore considered unreasonable to impose a parking requirement in this instance.

The re-development proposal would essentially close the Walker Arcade off at approximately the mid-way point between Stephen Street and Stirling Street leaving a walk-in access to the remaining 50% (Lot 3 Stirling Street) from Stirling Street. The existing (northern) thoroughfare would be partitioned into two elements, one being an area marked as car bays while the second would become part of shop 2 ("Wardrobe"). In addition, a new shop front would be installed to replace the existing arcade thoroughfare, with a design to match that of the existing two shop fronts.

The following criteria are considered relevant in terms of properly considering the matter and in terms of determining as to whether Council should, or should not, in its opinion, grant planning approval.

Land Use

The site is located within the City Centre zone whereby the use-class 'Shop' is a 'P' use in accordance with Table No.1 – Zoning Table, (Town Planning Scheme No.7). One of the objectives of the Local Government in respect of the 'City Centre' zone is to promote a broad range of compatible uses that are appropriate to the functioning of the 'City Centre'. The matter of land-use is therefore considered to be in order.

Car Parking

There are currently no car-parking bays for this site due to its historical nature. Although shop 2 ("Wardrobe") would technically gain floor space (160 sq.m), it is considered that the additional floor space would be gained by internal re-configuration of walls, and the portion of floor space gained from the arcade thoroughfare is, technically, retail/shop display as exists. It is therefore considered to an extent to be unreasonable in this instance to impose a car-parking requirement and it would be reasonable, it is considered, for Council to consider this application in conjunction with the proposed 'Parking Strategy' outlined in the summary of this report.

It is noted that the City of Bunbury Policy 5.4 (Bunbury CBD Parking) makes provision for the option of cash-in-lieu contributions for up to 80% of the overall on-site parking requirement. However, this option only officially applies to developments with a floor area above 2,000 sq m and below 3000 sq m. and therefore this option is not available, officially, in this instance. The current application involves a total (existing and proposed) of less than 1000 square metres.

The matter of the provision of adequate car parking, relative to the official requirements of the current Town Planning Scheme (TPS 7) is, as indicated above, the key planning issue. On balance, one could take the position that the developer is not actually creating any "new" floor space, in light of the fact that the walkway linking Stephen Street and Stirling Street is simply being re-constituted as formal retail space and, in light of the fact that it was essentially, a corridor within the lot area. On that basis therefore, the matter of car parking could be considered to be in order, i.e. that no further car parking would be required.

It is noted however, that Council is not necessarily bound by any policy (Clause 5.7.1.10 of the current Town Planning Scheme). On that basis therefore Council can if it wishes take a position that cash-in-lieu could actually be required to be paid to compensate for the considered shortfall in car parking in respect of the case at hand.

Strategic and/or Regional Outcomes

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

Community Consultation

Notice of the proposed use or development was served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval (Part 9.4.3 'a' of Town Planning Scheme No.7). There were three submissions received from businesses within the immediate proximity to and located within the southern end of the existing arcade. A summary of the comments are: Object to the arcade being blocked off as passing trade would be affected (Sweettooth English Allsorts); disruption to business during re-development process; access to toilets; access to rubbish disposal area; security of arcade during works (Amanda's Beauty & Holistic Therapies), vehicles parking to rear of IVC Computers – will there be an impact on vehicles from dust and debris; access to toilets for staff and customers; pleasant meander through arcade is a positive benefit to small business (Performance Business Sales)

Applicant Consultation

In order to progress the matter, discussions have been undertaken with the applicant on a number of occasions of which car parking has been at the centre of discussions but due to the compact nature of the existing site, the applicant decided not to amend the original submission.

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

The proposal would have no adverse impact on the Municipal Budget

Economic, Social, Environmental and Heritage Issues

Economic

On balance, it is considered that the gain in usable retail space outweighs the loss of an arcade thoroughfare. It is considered that the proposed development would provide economic benefit to the City as it proceeds to take up its second-city status in the State.

Social

The existing arcade (with the exception of serving as a corridor essentially linking Stephen Street and Stirling Street) is sparse in terms of retail businesses doing little to attract the public for the purpose of retail shopping. It is considered that there would be no obvious adverse consequences in this regard should the development proceed.

Environmental/Heritage Issues

There are no known issues relating to the proposed development

Council Policy Compliance

It is considered that the proposed development complies in principle with relevant Policies.

Legislative Compliance

Legislative requirements relating to the Local Government Act 1995 or any other Act, Local Law or Regulations have been complied with. The proposal will be required to comply with the requirements of the Health Act 1911 and the City of Bunbury Health Local Laws 2001.

Delegation of Authority

On the basis of Council's past determinations in respect of car parking for developments in the City Centre zone, the matter is referred to Council for its formal overview and determination.

Relevant Precedents

Council at its meeting of 11 December 2007, resolved to grant town planning approval in respect of a proposal for a change of use to 'Showroom & Music Tuition' at Lot 1 (No.100) Spencer Street (Vibrations Music) that had a marginal shortfall in respect of car parking provision. This example is typical of recent decisions in this regard over the past six months approximately.

Options

Option 1

Per the recommendation printed in this report.

Option 2

Should Council determine to resolve to issue grant of planning approval with a requirement for cash-in-lieu for the parking deficit for the proposed development, a suggested format for such action is as follows:

"Council, under any virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby resolves to grant conditional planning approval to Veens Design Drafting Service for the proposed re-development of Lot 2 on DP:D966 (Nos. 35-39) Stephen Street, Bunbury on the basis that \$200,000 (being 8 bays at \$25,000) is submitted to the City of Bunbury prior to any commencement of development activity."

Option 3

Should Council determine not to resolve to issue a grant of planning approval for 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 provisions of the Planning and Development Act 2005 hereby resolves to refuse grant of planning approval to Veens Design Drafting Service for a shop re-development (plans marked A0-01, A0-02 and A0-03 – December 2007) at Lot 2 (Nos. 35-39) Stephen Street, Bunbury, as the applicant has failed to provide sufficient car parking in accordance with Town Planning Scheme No. 7."

(plus any other reasons as determined by Council following discussion of the matter).

Conclusion

Development Services Officers are of the view that a grant of planning approval would be in order in this instance. The existing premises operates essentially as shop/retail complex within the CBD and historically does not have any on-site car-parking facilities. The proposal involves internal re-configuration of walls/partitions. It would be reasonable in the circumstances presented that the proposed re-development is acceptable without the requirement for on-site parking provision or a cash in lieu option. All other planning issues are considered to be in order.

It should be noted that the officer's recommendation provided is consistent with the provisions for allowing discretion under the proposed Parking Policy i.e. *'Council may not require parking for development of less than 500 sq.m GFA.'*

Recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to Veens Design and Drafting Services for the proposed re-development (plans marked A0-01, A0-02 and A0-03 – December 2007) at Lot 2 (Nos. 35-39) Stephen Street, Bunbury, subject to the following conditions:

1. During construction works pursuant to this planning approval, measures shall be implemented to the satisfaction of the Manager of Development Services, so that no undue nuisance or disturbance is caused to neighbouring properties/businesses by reason of the emission of noise, dust, grit, slurry or other materials or liquids.
2. The existing building/s forming the 'Walker Arcade' must comply with all statutory requirements and will require assessment with BCA, Vol '1' including but not restricted to fire services, fire compartmentation, provision of sanitary facilities, disabled access, travel distances, separation of combined services etc., details of which would need to be addressed prior to the issue of a building licence.

3. Any other normal operational condition(s) to the satisfaction of the Manager of Development Services.

Outcome of the Council Committee Meeting - 11 March 2008

The applicant, Mr Coote, addressed the members of the committee in favour of the proposed development (as had been submitted). During his presentation he indicated that one hour before the meeting, he had received a letter from Mr Chen of Chen Holdings confirming that he proposes to develop his property situated at the other end of Walker Arcade.

Cr Steck arrived at the meeting at this point in proceedings - 6.15pm.

The recommendation (as printed) was moved Cr Dillon, seconded Cr Jones to become the motion under discussion. The motion was put to the vote and carried 7 votes "for" to 3 votes "against". It became the Committee's recommendation on this issue.

Committee Recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to Veens Design and Drafting Services for the proposed re-development (plans marked A0-01, A0-02 and A0-03 – December 2007) at Lot 2 (Nos. 35-39) Stephen Street, Bunbury, subject to the following conditions:

1. *During construction works pursuant to this planning approval, measures shall be implemented to the satisfaction of the Manager of Development Services, so that no undue nuisance or disturbance is caused to neighbouring properties/businesses by reason of the emission of noise, dust, grit, slurry or other materials or liquids.*
2. *The existing building/s forming the 'Walker Arcade' must comply with all statutory requirements and will require assessment with BCA, Vol '1' including but not restricted to fire services, fire compartmentation, provision of sanitary facilities, disabled access, travel distances, separation of combined services etc., details of which would need to be addressed prior to the issue of a building licence.*
3. *Any other normal operational condition(s) to the satisfaction of the Manager of Development Services.*

11.2 RETROSPECTIVE AMENDED PLANNING APPROVAL FOR GAZEBO WITH OVERALL HEIGHT OVER 9 METRES - LOT 206 (NO. 13) HILDAS CLOSE, COLLEGE GROVE *(WAS LISTED AS ITEM 11.3 ON THE MEETING AGENDA)*

File Ref:	P12666
Applicant/Proponent:	David Robert Evans
Author:	Paul Davies, Planning Consultant
Executive:	Geoff Klem, Executive Manager City Development

Summary

An application has been received from Mr D R Evans for retrospective amended Planning Approval for a gazebo with an overall height in excess of 9 metres on Lot 206 (No. 13) Hildas Close, College Grove. A location plan is **attached** at Appendix 5.

On 26 September 2006, planning approval was granted for development of a two-storey residence with an attached gazebo on the subject land. The gazebo has been recently completed with a roof pitch of 63 degrees and an overall height of 10.4 metres from the centre point. The roof height is not in accordance with the building licence issued by the City for the development.

In view of the height being over 9 metres the proposal has been advertised for public and adjoining owner comment in accordance with Clause 9.4 of Town Planning Scheme No 7. Also, the proposal requires variation of the College Grove (Stage 5) Design Guidelines requirements to allow for a height in excess of 9 metres and side setback less than 5 metres.

The proposal was advertised for public comment and adjoining owners were requested to provide comment with the submission period closing on 20 February 2008. Five submissions were received. Details of the submissions are outlined in the report and in the Schedule of Submissions **attached** at Appendix 2.

Three submissions raised concerns in regard to the proposed development and potential for overlooking of adjoining properties. The adjoining neighbours to the north side of the property are concerned with the height of the gazebo and the impact of overlooking and privacy from the site.

One submitter outlines that there is no objection to the proposal as the development is not visible from their property. A submission from the proponent includes a survey of the site and identifies that the height of the structure at the centre point is 10.4 metres (minus colour bond cladding).

In view of the concerns from the adjoining owner it is recommended that the increased roof height in excess of the current approved height not be approved and the proponent be required to provide screening to a height of 1.6 metres on the three sections of the side of the gazebo facing adjoining Lot 203 Hildas Close.

It is recommended that Council resolve to refuse the amended planning application for retrospective approval of a gazebo in excess of the current approved height because the building height exceeds the requirements of the College Grove (Stage 5) Design Guidelines and will detrimentally affect the amenity of adjoining residences.

Background

On 26 September 2006 planning approval was granted for the development of a two storey residence with an attached gazebo on the subject land. The gazebo was approved with a reduced side setback of 4.5 metres from the side boundary following support from the adjoining property owner.

The approved planning application plans indicated a roof pitch of 25 degrees for the associated residence. A subsequent building licence issued for the development clearly shows a 25 degree roof pitch for the gazebo consistent with the roof pitch of the associated residence.

The Gazebo has been completed recently with a roof pitch of 63 degrees and an overall height of 10.4 metres from the centre point which is not in accordance with the building licence issued by the City for the development.

The adjoining owners to the north side subsequently wrote to the City following completion of the gazebo outlining concerns in regard to the height of the structure and potential for overlooking the adjoining property.

Council officers inspected the site and confirmed that the construction was not in accordance with the approved plans. The proponent was advised that the development should be modified to comply with the approved design plans or an application for amended planning approval would be required to be submitted.

A copy of the gazebo design drawing is **attached** at Appendix 3. The plans submitted with the application indicate a height of 9.4 metres to the centre point of the gazebo. The proponent has subsequently undertaken a site survey which indicates an overall height of 10.4 metres to the centre point. A copy of the survey plan is **attached** at Appendix 4.

In accordance with Clause 5.9.1.2 of Town Planning Scheme No. 7 where building height exceeds 9 metres and in the opinion of the local authority the proposed development may detrimentally affect adjoining residences, the proposal is to be advertised in accordance with Clause 9.4 of the scheme for neighbour and public comment.

In accordance with the College Grove (Stage 5) Design Guidelines Clause 10 the minimum side setback requirement is 5 metres. However, subject to consultation with adjoining landowners and demonstration that the development occurs so that the environmental and visual qualities of the area are protected and maintained the minimum setback may be reduced to 3 metres.

In accordance with Clause 11.0 of the Design Guidelines the maximum building height of any building is required to be 9 metres AHD. In accordance with the design guidelines alternative designs can be considered subject to demonstration that the proposed development is in keeping with the objectives and intent of the Design Guidelines and subject to Council approval.

Also, in accordance with Clause 12 of the Design Guidelines, outbuildings and other structures shall be designed in a manner and constructed of materials so as to be visually compatible with the dwelling house that they are ancillary to.

In accordance with the Residential Design Codes any development raised in excess of 0.5 metres above the existing ground level is required to be setback from boundaries in accordance with the R Codes requirements. In the case of a deck or raised patio area the general requirement is for a minimum setback of 7.5 metres.

Alternatively, suitable screening to a minimum height of 1.6 metres above the FFL can be provided to reduce overlooking impacts on adjoining properties. The subject development has significant overlooking of the adjoining property with the gazebo floor level raised in sections over 2 metres above the existing ground level.

As stated under the heading "Summary" above, the proposal was advertised for public comment and adjoining owners were requested to provide comment with the submission period closing on 20 February 2008. Five submissions were received and three of these raised concerns in regard to the proposed development and potential for overlooking of adjoining properties. The adjoining neighbours to the eastern side of the property are concerned with the height of the gazebo and the impacts of overlooking and privacy from the site.

A submission from the proponent includes a survey of the site and identifies that the height of the structure at the centre point is 10.4 metres (minus colour bond cladding). In view of the roof height exceeding 9 metres the proposal requires variation of the College Grove (Stage 5) Design Guidelines. Also, the reduced side setback of 4.5 metres requires variation of the minimum 5 metre setback requirement under the Design Guidelines. The reduced side setback was previously supported by the adjoining landowner on the basis of the approved plan.

In view of the concerns from the adjoining owner it is recommended that the increased roof height of 10.4 metres to the centre point not be approved and the proponent be required to provide screening to a height of 1.6 metres on the three sections of the side of the gazebo facing adjoining Lot 203 Hildas Close.

Strategic and/or Regional Outcomes

The *City of Bunbury 2007–2012 Strategic Plan* states that “*The City will ensure that it maintains a comprehensive and fully integrated planning system to meet community expectations.*” In this case, the proposal has been considered in the context of its compliance with current Scheme and has been assessed against relevant planning policies.

Community Consultation

The proposal was advertised for public comment and adjoining owners were requested to provide comment with the submission period closing on 20 February 2008. Five submissions were received.

Councillor/Officer Consultation

This matter was reviewed by Council staff at Development Coordination Unit Meetings comprising officers from Engineering, Planning, Building and Health. Further discussions have taken place with the Manager Development Services, Senior Planner (Statutory) and Executive Manager City Development.

Analysis of Financial and Budget Implications

The recommendation printed in this report 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

There are no significant economic, environmental or heritage impacts to consider. Social impacts are as listed in this report.

Council Policy Compliance

The recommendation (as printed) does not contravene any known Council policy.

Legislative Compliance

The proposed retrospective planning application can be considered in accordance with the provisions of the Planning and Development Act 2005.

Delegation of Authority

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

Relevant Precedents

There are no known relevant precedents.

Options

Option 1

Per the recommendation printed in this report.

Option 2

Should Council wish to approve the application, the following wording is recommended:

"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 resolves to grant retrospective amended planning approval to Mr D R Evans for the gazebo development on Lot 206 (No. 13) Hildas Close, College Grove subject to the following conditions:

- 1. Installation of appropriate screening to a minimum height of 1.6 metres along the three sections of the side of the gazebo overlooking the adjoining lot being Lot 203 Hildas Close, to the satisfaction of the Manager Development Services.*
- 2. All other relevant operational conditions to the satisfaction of the Manager Development Services."*

Conclusion

The Gazebo has been recently completed with roof pitch of 63 degrees and an overall height of 10.4 metres - this does not comply with the building licence issued by the City for the development.

In view of the height being over 9 metres the proposal has been advertised for public and adjoining owner comment in accordance with Clause 9.4 of Town Planning Scheme No 7. Also, the existence of the building requires a variation to be made to the College Grove (Stage 5) Design Guidelines for height in excess of 9 metres and side setback less than 5 metres.

In view of the concerns from the adjoining owner it is recommended that the increased roof height in excess of the current approved height not be approved and the proponent be required to provide screening to a height of 1.6 metres on the three sections of the side of the gazebo that faces adjoining Lot 203 Hildas Close.

Recommendation

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

1. The application for retrospective amended planning approval from Mr D R Evans for a gazebo with an overall height exceeding 9 metres on Lot 206 (No. 13) Hildas Close, College Grove be refused for the following reasons:
 - 1.1 The development conflicts with Clause 5.9.1.2 of Town Planning Scheme No. 7 as the building height exceeds 9 metres and in the opinion of the local authority the proposed development will have a detrimental effect on adjoining residences.

- 1.2 The development conflicts with Clause 10.2.1 of Town Planning Scheme No 7 with regard to the following matters:
 - a) the compatibility of a use or development with its setting
 - b) the preservation of the amenity of the locality.
 - 1.3 The development conflicts with Clause 11.0 of the College Grove (Stage 5) Design Guidelines which requires that the maximum building height of any building is to be 9 metres AHD.
 - 1.4 The development conflicts with Clause 12 of the College Grove (Stage 5) Design Guidelines which requires outbuildings and other structures to be designed in a manner and constructed of materials so as to be visually compatible with the dwelling house that they are ancillary to.
2. The applicant is to modify the gazebo roof to comply with the current building licence and install appropriate screening to a minimum height of 1.6 metres above FFL along the three sections of the side of the gazebo overlooking adjoining Lot 203 Hildas Close, to the satisfaction of the Manager Development Services.

Outcome of the Council Committee Meeting - 11 March 2008

The owner of Lot 206 (No. 13) Hildas Close, Mr David Evans, addressed committee members and passed around colour photographs of the gazebo for members to view. He stated that the spire-like roof has been designed to assist with ventilation on hot days and in his opinion, fully complements both the existing residence on his property and the surrounding area. He admitted that the roof pitch stated on the plans submitted for the Building Licence is different to what has been constructed but indicated this was an oversight and was only noticed when the Building Surveyor later undertook an inspection. Mr Evans asked members to support his bid for retrospective planning approval and allow the building to remain in its current form as it is not detrimental to the amenity of the surrounding residential area as (he claims) it is situated amongst trees and cannot be seen by anyone other than the immediately adjoining neighbour.

The recommendation (as printed) was moved Cr Dillon, seconded Cr Leigh to become the motion under discussion. The motion was put to the vote and carried 9 votes "for" to 1 vote "against".

Committee Recommendation

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

- 1. The application for retrospective amended planning approval from Mr D R Evans for a gazebo with an overall height exceeding 9 metres on Lot 206 (No. 13) Hildas Close, College Grove be refused for the following reasons:*
 - 1.1 The development conflicts with Clause 5.9.1.2 of Town Planning Scheme No. 7 as the building height exceeds 9 metres and in the opinion of the local authority the proposed development will have a detrimental effect on adjoining residences.*
 - 1.2 The development conflicts with Clause 10.2.1 of Town Planning Scheme No 7 with regard to the following matters:*
 - a) the compatibility of a use or development with its setting*
 - b) the preservation of the amenity of the locality.*
 - 1.3 The development conflicts with Clause 11.0 of the College Grove (Stage 5) Design Guidelines which requires that the maximum building height of any building is to be 9 metres AHD.*
 - 1.4 The development conflicts with Clause 12 of the College Grove (Stage 5) Design Guidelines which requires outbuildings and other structures to be designed in a manner and constructed of materials so as to be visually compatible with the dwelling house that they are ancillary to.*
- 2. The applicant is to modify the gazebo roof to comply with the current building licence and install appropriate screening to a minimum height of 1.6 metres above FFL along the three sections of the side of the gazebo overlooking adjoining Lot 203 Hildas Close, to the satisfaction of the Manager Development Services.*

11.3 PROPOSED OFFICE EXTENSIONS - PROFESSIONALS REALTY, LOT 5 (NO. 13)
STIRLING STREET, BUNBURY (*WAS LISTED AS ITEM 11.7 ON THE MEETING AGENDA*)

File Ref:	P09117
Applicant/Proponent:	Veens Design Drafting Service
Author:	Kevin Townroe, Planning Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has recently received a planning application for an extra office at Lot 5 (No. 13) Stirling Street in the "City Centre" zone.

The key planning issue relates to the matter of car parking. In accordance with Table No. 2 of the City's Town Planning Scheme No. 7 ("TPS No. 7"), the subject site attracts three additional car parking spaces as a result of the proposed development. On the other hand, the Scheme provides that development up to 2000 sq.m gross floor area in the "City Centre" zone may be exempted from the provision of parking spaces.

However, this provision of the Scheme is under review along with car parking requirements in the Central Business District ("CBD") generally. The City of Bunbury 'Central Business District, Parking Strategy was adopted by Council in August 2007. The draft Local Planning Policy, 'Central Business District Parking', dated February 2008 is currently under review and is scheduled to be considered by Council in the near future for adoption. In section 2.9.1 of the draft Local Planning Policy under 'Proposed Clause' it states that *'In exercising its discretion, Council may not require parking for development of less than 500 sq.m GFA.'* and section 2.9.3 (proposed new clause) states that *'Where an existing use and associated building/s form part of a new development for a particular site, current parking requirements under TPS No.7 shall only apply to the new component of the development proposal'.* Council may wish to consider this application in light of the seriously entertained proposed new parking Policy document.

However, although Council may wish to exercise discretion, Development Services Officers have based their recommendation on the current endorsed Policy position. It is considered that a grant of approval would be in order, but conditional on the payment of monies to Council to balance the deficit in car parking. It is considered that this action would be generally consistent with recent decision-making by Council whereby Council has determined to waive car-parking deficits in cases where such deficits are small and where there is no increase in floor space.

Background

Council will recall its Decision 134/07 at the meeting of 3 July 2007 regarding car-parking requirements in the CBD that states that:

“Prior to the final adoption of a new Local Planning Policy for the CBD, the Council shall exercise full discretion for approval on all Development Applications requiring parking provision on a case-by-case basis.”

It is on this principle that the matter is referred to Council for its consideration.

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

Professional Realty occupies the existing building on the site. The proposed two-storey extension to the front (north) elevation would create an extension to the existing building and provide additional office space. There are 13 existing car-parking bays to the rear (south) side of the existing building that function using a ‘tandem’ parking arrangement that has operated as such for a long period of time. The tandem parking arrangement is mirrored throughout the neighbouring sites and appears to function successfully.

The proposed development is best described by reference to the submitted plans **attached** at Appendix 16.

The proposal is for the construction of a two-storey extension. This would create a new frontage facing onto Stirling Street. The proposed extension would create an additional 289 sq.m of office space within the city centre zone. The host building has 483 sq.m of existing office space, which when combined with the proposed extension would create total of 772 sq.m of office space for the site. The ground floor, as proposed, would consist of a main entrance/foyer fronting onto Stirling Street with the provision of some car parking accessed from the rear minor road.

The following criteria are considered relevant in terms of properly considering the matter and in terms of determining as to whether Council should, or should not, in its opinion, grant planning approval.

Land Use

The site is located within the City Centre zone whereby the use-class ‘Office’ is a ‘P’ use in accordance with Table No.1 – Zoning Table, (Town Planning Scheme No.7). One of the objectives of the Local Government in respect of the ‘City Centre’ zone is to promote a broad range of compatible uses that are appropriate to the function of the ‘City Centre’. However, it is considered that any new developments within the City Centre should be sustainable.

Bulk and Location Requirements of the Scheme

TPS 7 does not list any bulk and location requirements except for plot ratio. The upper maximum allowable plot ratio is 3.5; the proposed plot ratio is approximately 1.0 and therefore clearly complies with Scheme requirements.

Car Parking

There are currently 13 car-parking bays for this site. The existing office space combined with the proposed new office space would create a requirement for 16 car-parking bays (Table No.2 – car parking Guidelines, Town Planning Scheme No.7). There is one additional car-parking bay proposed leaving a shortfall of 2 car-parking bays. It is considered that the proposal constitutes new construction within the City and is likely therefore to generate more traffic movement by virtue of additional staff/visitors adding unreasonable pressure upon existing premium parking within the City Centre.

TPS 7 states that: *“No person is to develop any land for a use or purpose specified in Table 2 otherwise than in accordance with the relevant standards contained therein”* (Town Planning Scheme No.7, Part 5.7.1.2). In this case the development application is not in accordance with the relevant standards and is 2 bays short of this required standard. The applicant has not submitted any documentation to support any deficit in car parking requirements in this instance. The applicant however does refer to TPS 7, Part 5, 5.7.1.9 which states: *“car parking spaces associated with developments of up to 2,000 sq.m gross floor area may not be required”*. It is considered that the City of Bunbury has reached a crossroads in its development history and while recognising the positive contribution that the proposed development would have on the City, the wider issues of traffic management and car parking must, it is considered, take precedence, otherwise, the City would develop with an inherent lack of car parking adversely impacting on the proper functioning of the City.

It is considered that a tandem-parking situation is far from ideal and not without functionality complications. However, consideration must be given to the fact that the tandem-parking situation for this particular property has operated as such historically for some time and this system would appear to work in this instance.

In terms of relative consistency of decision-making, reference is made to a recent decision by Council in respect of 18 Carey Street in respect of an office extension (Council meeting held on 5 February 2008 refers). In this instance, there was a shortfall of three spaces (on the basis of the acceptance of four tandem spaces). On the principle that the “conservation” of the heritage building (cost by the applicant) was considered to be a sufficient quid pro quo to balance the formal provision of car parking or the payment of monies in lieu of car-parking Council determined to issue a grant planning approval. In terms of the current application being considered, however, the building is not of heritage character, and there does not appear to be any mitigating circumstance(s) whereby Development Services could reasonably support the development without the payment of cash in lieu to balance the shortfall in car parking.

It is also noted that in other instances that Council considered recently (refer paragraph titled “Relevant Precedents”) such applications did not actually involve any increase in floor space, whereas the current applicant, in fact, does involve a not-insignificant increase in additional level of office floor space.

It is noted that the City of Bunbury Policy 5.4 (Bunbury CBD Parking) makes provision for the option of cash-in-lieu contributions for up to 80% of the overall on-site parking requirement. However, this option only officially applies to developments with a floor area above 2,000 sq m and below 3,000 sq m. and therefore this option is not available, officially, in this instance. The current application involves a total area (existing and proposed) of less than 1,000 square metres.

It is noted however, that Council is not necessarily bound by any policy (Clause 5.7.1.10 of the current Town Planning Scheme). On that basis therefore Council can if it wishes take a position that cash-in-lieu could actually be required to be paid to compensate for the considered shortfall in car parking in respect of the case at hand.

On balance therefore it is considered that the matter of car parking is in order so long as the grant of approval is conditional on the applicant paying to the City the sum of \$25,000 per car parking in shortfall (two spaces).

Streetscape

The building designer has proposed a relatively significant visual change to the front of the building in the form of a facade that would overhang the footpath. It is considered that the proposed development is in order from a streetscape perspective. However it is noted that this particular part of the proposed development would require the formal approval of the Department for Planning and Infrastructure's Land Asset Management Services. It is understood that the applicant is currently negotiating with the DPI to gain its approval. The Report's recommendation is to include a condition to the effect that the suggested grant of approval should be subject to the approval of the development by the DPI in respect of the fact that the proposed facade would overhang the street, and, that if the applicant fails to gain such approval, that the front elevation is to be re-designed to the satisfaction of the Manager of Development Services.

Strategic Outcomes

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

Community Consultation

It is considered that formal community consultation is not necessarily required in this instance.

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

The proposal would have no adverse impact on the Municipal Budget.

Economic, Social, Environmental and Heritage Issues

Economic Issues

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

Social Issues

There would be no adverse consequence in this regard should the development proceed.

Heritage Issues

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

Environmental Issues

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

Council Policy Compliance

It is considered that the proposed development complies in principle with relevant Policies.

Legislative Compliance

Legislative requirements relating to the Local Government Act 1995 or any other Act, Local Law or Regulations have been complied with. The proposal will be required to comply with the requirements of the Health Act 1911 and the City of Bunbury Health Local Laws 2001.

Delegation of Authority

On the basis of Council's past determinations in respect of car parking for developments in the City Centre zone, the matter is referred to Council for its formal overview and determination.

Relevant Precedents

Council at its meeting on 28 August 2007, resolved to grant town planning approval in respect of a proposal to establish a consulting room at Lot 191 (No. 83A) Victoria Street (from offices) which had a marginal shortfall in respect of car parking provision. This example is typical of recent decisions in this regard over the past six months approximately.

It is also noted that Council formally approved an office extension in respect of 18 Carey Street (Council meeting on 5 February 2008 refers) where there was a shortfall of three spaces (on the basis of the acceptance of four tandem spaces) on the principle that the "conservation" of the heritage building (cost by the applicant) was a sufficient quid pro quo to balance the formal provision of car parking or the payment of monies in lieu of car-parking.

Options

Option 1

Per the recommendation printed in this report.

Option 2

Should Council determine to resolve to grant planning approval with no requirement for car parking provision in light of the Draft Local Planning Policy (Central Business District Parking) then a suggested format for such action is as follows:

"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to grant conditional planning approval to Veens Design Drafting Service for the construction of a two-storey extension on Lot 5 on DP: P2388 (No. 13) Stirling Street, Bunbury."

Option 3

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

"Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to refuse grant of planning approval to Veens Design Drafting Service for an office extension (plans marked A0-01 and A0-02 – December 2007) at Lot 5 (No. 13) Stirling Street, Bunbury, as the applicant has failed to provide sufficient car parking in accordance with Town Planning Scheme No. 7."

(plus any other reasons as determined by Council following discussion of the matter).

Conclusion

It is considered that issue of development approval would be in order. As indicated the core planning issue relates to the matter of the provision of car parking. Whilst Council could take the position (in that the land is being re-developed) that the currently supplied tandem car parking spaces should accord with current standards (i.e. that all spaces should be useable at all times), Development Services Officers are of the opinion that it would be reasonable in the circumstances that the current car-parking layout is accepted as is (with the provision of 14 spaces). Furthermore, on the basis that the proposed development is such that there is a deficit of 2 car parking spaces and given that the proposed new parking Policy may not require parking for development of less than 500 sq.m, Council may wish to exercise its discretion in this instance.

Although Council may exercise its discretion, Development Services have based its recommendation on the current endorsed policy position. It is considered that the developer should pay a cash-in-lieu contribution to Council in terms of the deficit in car parking; such action would essentially be in line with Council's most recent decision in broadly similar cases. All other planning issues have been considered, and are generally in order.

Recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to Veens Design and Drafting Services for an office extension (plans marked A0-01 and A0-02 – December 2007) at Lot 5 (No. 13) Stirling Street, Bunbury, subject to the following conditions:

1. The premises being used only in accordance with the definition of "office" contained in Schedule 1 of Town Planning Schemed No. 7 unless otherwise approved by Council.
2. The developer is required to pay the City the monetary sum of \$25,000 for each car parking space less than that which is required for the proposed development pursuant to the requirements of Town Planning Scheme No. 7 and Austroads and any other relevant Australian Standards, this to be to the satisfaction of the City's Chief Executive Officer, and; any monetary figure in this regard is to be paid to the City prior to the issue of a building licence for the proposed development.
3. This approval shall expire unless the works hereby authorised have been substantially commenced within 2 years of the date of issue or within any extended period for which Council has granted written consent. Any application for such consent shall be received within 1 month prior to the expiration of the Planning Approval.
4. All development shall be generally in accordance with the approved development plans which form part of this Planning Approval.

5. The applicant to obtain approval (prior to consideration of a building licence application by the City) from the Department for Planning and Infrastructure's Land Asset Management Services Division, for the proposed balcony and associated structures (proposed to overhang the street) and that if the applicant in the end fails to gain such approval, the applicant is required to re-design the front elevation of the subject building to the satisfaction of the City's Manager of Development Services.
6. Any other normal operational condition(s) to the satisfaction of the Manager of Development Services.

Outcome of the Council Committee Meeting - 11 March 2008

The applicant, Mr Geldert, addressed the committee requesting that the members support Option 2 instead of the recommendation printed in the report. Mr Geldert advised that his development is mainly the renovation of an existing building. The development will comprise an area of less than 500 sq.m and 10 sq.m of this will comprise 'common areas' such as corridors, kitchens and toilets. The renovation will allow the firm's existing staff members and operations to be more comfortably accommodated and as such, no additional parking is required. On this basis, Mr Geldert asserted that the existing 14 parking bays at the rear of the building and street parking on Stirling Street are more than adequate. He added that he would have waited to submit his application until after the Council had approved its proposed CBD Parking Strategy (under which he considers he would not be required to provide parking) but is anxious to get the project started due to rising building costs and interest rates.

Option 2 (as printed in the report) was moved Cr Jones, seconded Cr Steck. During initial discussion, it was amended to add words ensuring that the applicant has to comply with normal statutory conditions applicable to a project of this nature. The re-worded motion read as follows:

"Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby resolves to grant conditional planning approval to Veens Design Drafting Service for the construction of a two-storey extension on Lot 5 on DP: P2388 (No. 13) Stirling Street, Bunbury - all normal statutory and operational conditions (apart from provision of additional parking) to apply and to be to the satisfaction of the Manager of Development Services."

Discussion of the motion centred on the City's proposed *CBD Parking Strategy* and associated policy. The Parking Policy includes a proposal to limit a 100% parking exemption to developments of 500 sq.m or less. It was concluded however, that the statutory processes associated with adoption of the planning policy have not yet been completed so there is no guarantee at this time that lowering the threshold to 500 sq.m will be supported.

The Presiding Member put the motion to the vote and it was defeated 4 votes "for" to 6 votes "against". Votes were recorded as follows:

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

The recommendation (as printed in the report) was moved Cr Slater, seconded Cr Whittle. It was put to the vote and carried 6 votes "for" to 4 votes "against" to become the Committee's recommendation on this issue.

Committee Recommendation

Council under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, hereby resolves to grant planning approval to Veens Design and Drafting Services for an office extension (plans marked A0-01 and A0-02 – December 2007) at Lot 5 (No. 13) Stirling Street, Bunbury, subject to the following conditions:

- 1. The premises being used only in accordance with the definition of "office" contained in Schedule 1 of Town Planning Schemed No. 7 unless otherwise approved by Council.*
- 2. The developer is required to pay the City the monetary sum of \$25,000 for each car parking space less than that which is required for the proposed development pursuant to the requirements of Town Planning Scheme No. 7 and Austroads and any other relevant Australian Standards, this to be to the satisfaction of the City's Chief Executive Officer, and; any monetary figure in this regard is to be paid to the City prior to the issue of a building licence for the proposed development.*
- 3. This approval shall expire unless the works hereby authorised have been substantially commenced within 2 years of the date of issue or within any extended period for which Council has granted written consent. Any application for such consent shall be received within 1 month prior to the expiration of the Planning Approval.*
- 4. All development shall be generally in accordance with the approved development plans which form part of this Planning Approval.*
- 5. The applicant to obtain approval (prior to consideration of a building licence application by the City) from the Department for Planning and Infrastructure's Land Asset Management Services Division, for the proposed balcony and associated structures (proposed to overhang the street) and that if the applicant in the end fails to gain such approval, the applicant is required to re-design the front elevation of the subject building to the satisfaction of the City's Manager of Development Services.*
- 6. Any other normal operational condition(s) to the satisfaction of the Manager of Development Services.*

11.4 PROPOSED APPOINTMENT TO BUNBURY AIRPORT ADVISORY COMMITTEE
(WAS LISTED AS ITEM 11.1 ON THE MEETING AGENDA)

File Ref:	F00080
Applicant/Proponent:	Internal Report
Author:	Nigel Archibald, Airport Reporting Officer
Executive:	Michael Scott, Executive Manager City Services

Summary

It is proposed to appoint Arpad Mencshelyi as a 'Community Representative' on the Bunbury Airport Advisory Committee.

An extract from the City's Committee Book showing the committee's Terms of Reference is **attached** at Appendix 1.

Background

The Bunbury Airport Advisory Committee was appointed by the Council on 27 November 2007 to provide guidance and recommendations to assist the Council in discharging its duties. Membership of the committee is currently:

Councillor Wayne Major
Councillor Tom Dillon
Councillor Noel Whittle
Blair Howe
Alex Karatamoglou
Paul Coffey
Brendan Watts
Iain Farmer
Mike Fletcher

Members of the public were invited to nominate for appointment as a Community Representative on Council's committees. Applications closed on 15 January 2008. An application was received from Arpad Mencshelyi expressing a desire to join the Bunbury Airport Advisory Committee. A copy of the application letter/nomination form received from Mr Mencshelyi has been circulated to members as a Confidential Report.

Strategic and/or Regional Outcomes

The *City of Bunbury Strategic Plan 2007-2012* states that the City's vision is: *"To enhance our community's pride in our City by demonstrating the pursuit of excellence by our leadership, advocacy, service delivery and facilities."*

The Strategic Plan is based around six objectives - two of these are relevant to the recommendation in this report, they are:

1. Strengthen the City of Bunbury's governance and leadership
2. Develop social capital - having community representatives on council committees helps those committees derive a broader insight into public sentiment concerning the activities of the Council.

Community Consultation

Advertisements calling for members of the public to nominate for appointment as a Community Representative on Council's committees appeared in the Bunbury Herald Newspaper on 4 December 2007 and in the South Western Times Newspaper on 13 December 2007. A copy of the advertisement also appeared on Council's website.

Councillor/Officer Consultation

The application by Arpad Mencshelyi was discussed at the Airport Advisory Committee Meeting held on 14 February 2008 and a decision was made to recommend his appoint.

Analysis of Financial and Budget Implications

The activities and objectives of advisory committees or project control groups correlate with the City's annual budget, annual programme of works or the City Vision Strategy and are resourced accordingly.

Economic, Social, Environmental and Heritage Issues

Not applicable - this is a nomination for appointment to an existing committee of the Council.

Council Policy Compliance

The "Terms of Reference" for advisory committees or project control groups appointed by the Council do not contravene established Council policies.

Policy CEO7 (adopted by Council on 27 November 2007) sets out guidelines for establishment and operation of advisory committees.

Legislative Compliance

Section 5.9(2) indicates that an advisory committee of the Council may comprise council members only, officers only, community members only or a combination of any of these.

Appointments to a committee of the Council (or any amendment to its terms of reference) must be by an absolute majority vote.

Tenure of committee membership is specified in Section 5.11 of the Local Government Act 1995.

Delegation of Authority

Not applicable - the Chief Executive Officer has not been delegated the authority to appoint members to committees of council.

Relevant Precedents

The Council regularly appoints members to (or updates membership of) its various committees.

Options

Option 1

Appoint Mr Mencshelyi per the recommendation listed in this report.

Option 2

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

Option 3

Council advises Mr Arpad Mencshelyi that his nomination for appointment to the Bunbury Airport Advisory Committee was not successful as he is not a lessee at the airport.

Recommendation

Council appoints Mr Arpad Mencshelyi as a 'Community Representative' on the Bunbury Airport Advisory Committee - the tenure of his membership is as specified in Section 5.11 of the Local Government Act 1995.

Outcome of the Council Committee Meeting - 11 March 2008

The recommendation (as printed) was moved Cr Jones, seconded Cr Leigh. The motion was put to the vote and carried 10 votes "for" to nil votes "against and became the Committee's recommendation on this issue.

Committee Recommendation

Council appoints Mr Arpad Mencshelyi as a 'Community Representative' on the Bunbury Airport Advisory Committee - the tenure of his membership is as specified in Section 5.11 of the Local Government Act 1995.

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

11.5 GREATER BUNBURY SPORTS FACILITIES PLAN *(WAS LISTED AS ITEM 11.2 ON THE MEETING AGENDA)*

File Ref:	A02709
Applicant/Proponent:	Internal Report
Author:	Bill Carlsen, Recreation Planner
Executive:	Dom Marzano, Executive Manager City Life

Summary

The aim is to produce a sub-regional plan for development of facilities for sport (and other facilities for physical activity) covering the areas of Brunswick, Leschenault, Australind, Eaton and Bunbury including the outer suburbs of Gelorup, Boyanup, Dalyellup and Capel.

Background

In 2005, Mr Troy Jones the Manager of the Department of Sport and Recreation in the South West Region, approached the City of Bunbury and the Shires of Harvey, Dardanup and Capel with the aim of producing a future sports facilities plan.

Drawn from local recreation plans the regional plan will identify:

- An audit of existing facilities
- The mapping of existing facilities
- Areas for future development and where the need for potential further facility development will need to occur.

The plan will consist of:

- A report giving recommendation of priority modification/future provision
- Maps showing the current location of facilities and where future facilities may be developed or relocated.

Since 2005, the following representatives have formed a working group and have been collecting data as required:

- Department of Sport and Recreation - Mr Troy Jones, Manager (South West Region)
- City of Bunbury - Mr Bill Carlsen, Recreation Planner
- Shire of Dardanup - Ms Kym Harrington, Community Development Officer
- Shire of Harvey - Mr David Goodwin, Manager Leschenault Leisure Centre (prior to Mr Goodwin, the representative was Mr Rohan Klemm)
- Shire of Capel - Ms Michelle Plume, Community Development Manager (prior to Ms Plume, the representative was Ms Elizabeth Watson)

Strategic and/or Regional Outcomes

The final report will detail where facilities of a suitable size and style will be best placed to meet future population demands. The report will give recommendations on a sub-regional basis to enable potential planning/funding agencies to more easily identify where priority areas for sport facility provision (at a regional and local level) will be best suited.

The report will enable Council to refine local facility and budget planning and have this incorporated into the Council's Strategic Plan and Principal Activities Plan as well as other planning documents for example the Recreation Plan.

The Report will enable the four local governments involved to develop sub-regional facilities on a priority basis.

Community Consultation

Major sports groups, and relevant regional sports associations within each local government area have been consulted. The consultation process will continue as the draft plan is formulated. The draft plan will be open for public comment before a final plan is presented to each local government for consideration and adoption.

Councillor/Officer Consultation

Key stakeholders in each local government have been consulted. This consultation has been undertaken by the relevant Council's representative.

Mr Troy Jones (as a representative of the Department of Sport and Recreation) gave a presentation to the Bunbury-Wellington Economic Alliance in September 2006 to introduce the concept of developing a sub-regional plan and gain support for continuation of the project.

The City's Recreation Planner has been a member of the project's working group to date. However, it is proposed that further monitoring of progress of the project (and further consultation as necessary) will take place via the Council's recently established Recreation Project Control Group,.

Analysis of Financial and Budget Implications

Council's contribution is "in-kind" support and will not impact on the current financial year budget. The Department of Sport and Recreation has secured a budget of \$10,000 toward the cost of the project and the production of reports.

Economic, Social, Environmental and Heritage Issues

No immediate economic, social, environmental and heritage issues have been identified.

In the longer term, implementation of the Recreation Plan is anticipated to provide positive social benefits to the local community. It has potential to realise flow-on benefits and through recreational pursuits, bring the neighbouring communities that make up the Greater Bunbury Region closer together.

Council Policy Compliance

The proposal does not contravene any existing Council Policy.

Legislative Compliance

The proposal does not contravene any legislative requirements.

Delegation of Authority

Council officers do not have delegated authority to approve final development of a sub-regional plan for sport and other physical activity facilities.

Relevant Precedents

The City of Bunbury Policy CS2 in regard to the provision of recreation facilities section 4. states: *“Bunbury Wellington region co-operation in the provision of recreation facilities to be a feature of planning or rationalising recreation facilities”*.

Options

Option 1

Per the recommendation contained in this report.

This is the recommended option for implementation of the City of Bunbury Recreation Plan because it has the potential to realise greater community benefit in a cost effective way.

Option 2

Council does not approve the production of a sub-regional plan for provision of facilities for sport and other physical activities (in partnership with the Department of Sport and Recreation).

This option is not recommended. If the City develops a sub-regional plan without consultation with neighbouring Local Governments, there is potential risk for duplication and waste of resources.

Conclusions

The Greater Bunbury Sport Facilities Plan will provide a guideline for further development of sport and recreation facilities and services in a predetermined fashion to improve:

- Council's position to attract funds via Government agencies.
- Viability and sustainability of facilities.
- The building of capacity of sports and recreation clubs.
- Encouragement of inclusive practices and support for the Disability Access and Inclusion Plan of the Local Governments identified in the Greater Bunbury Sport Facilities Plan.

It would be appropriate for the Recreation Planner to provide input to the development of the Greater Bunbury Sport Facilities Plan.

Recommendation

1. Council gives approval for the City of Bunbury to enter into a partnership with the Department of Sport and Recreation for production of a sub-regional plan for sport (and other physical activity) facilities covering the areas of Brunswick, Leschenault, Australind, Eaton and Bunbury including the outer suburbs of Gelorup, Boyanup, Dalyellup and Capel - the report to be presented to Council for consideration upon its completion.
2. Council authorises the City's Recreation Planner to continue to liaise with the Greater Bunbury Sport Facilities Plan Working Group as the nominated representative of the Council's Recreation Project Control Group.

Outcome of the Council Committee Meeting - 11 March 2008

The recommendation (as printed) was moved Cr Slater, seconded Cr Dillon. During discussion, committee members suggested that an additional point 3. be added as follows: "*3. Council to request that the sub-regional plan be completed within 12 months.*" The mover and seconder agreed to amend their motion accordingly.

Following discussion, the motion (now amended) was put to the vote and carried 10 votes "for" to nil "votes" against to become the committee's recommendation on this matter.

Committee Recommendation

- 1. Council gives approval for the City of Bunbury to enter into a partnership with the Department of Sport and Recreation for production of a sub-regional plan for sport (and other physical activity) facilities covering the areas of Brunswick, Leschenault, Australind, Eaton and Bunbury including the outer suburbs of Gelorup, Boyanup, Dalyellup and Capel - the report to be presented to Council for consideration upon its completion.*
- 2. Council authorises the City's Recreation Planner to continue to liaise with the Greater Bunbury Sport Facilities Plan Working Group as the nominated representative of the Council's Recreation Project Control Group.*
- 3. Council to request that the sub-regional plan be completed within 12 months.*

11.6 PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 20 - REZONE VARIOUS PORTIONS OF LAND FROM "PARKS AND RECREATION" OR "PUBLIC PURPOSE RESERVE" TO "RESIDENTIAL" OR "INDUSTRY ZONE"
(WAS LISTED AS ITEM 11.4 ON THE MEETING AGENDA)

File Ref:	P05893
Applicant/Proponent:	Internal Report
Author:	Paul Davies, Planning Consultant
Executive:	Geoff Klem, Executive Manager City Development

Summary

The proposal is to rezone the following lots or portions of reserved land for a variety of purposes including:

1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from Reserve for "Public Purpose - Drainage" to "Mixed Business".
2. Portions of Lot 454 Richter Road, Davenport from "Industry" and Reserve for "Parks and Recreation" to "Industry", "Local Distributor Road" and Reserve for "Parks and Recreation".
3. Lot 28 Mangles Street from Reserve for "Public Purpose -, Water Supply" to "Residential R 15".
4. Reserve 31945 Harrison Place from Reserve for "Parks and Recreation " to "Residential R40"

The Council's Land Rationalisation Working Group considers the land as generally surplus to requirements for current reserve purposes and recommends that the respective sites be rezoned and disposed of as necessary.

The amendment was advertised for public comment for a period of 42 days and a total of 8 submissions were received. Details of the submissions are discussed in the report and the Schedule of Submissions **attached** at Appendix 6.

It is recommended that Council resolve to finally adopt the amendment with modifications as outlined in the report and forward the amendment to the Hon Minister for Planning and Infrastructure for final approval.

Background

At its meeting on 7 August 2007, the Council resolved to initiate the statutory process for appropriate amendments to Town Planning Scheme No. 7 to rezone the following land:

1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from Reserve for “Public Purpose- Drainage” to “Mixed Business”.
2. Portions of Lot 454 Richter Road, Davenport from “Industry” and Reserve for “Parks and Recreation” to “Industry” , “Local Distributor Road” and Reserve for “Parks and Recreation”.
3. Lot 28 Mangles Street from Reserve for “Public Purpose - Water Supply” to “Residential R 15”.
4. Reserve 31945 Harrison Place from Reserve for “Parks and Recreation ” to “Residential R40”
5. Portion of Part lot 200 Charterhouse Close from Reserve for “Parks and Recreation” to “Residential R30” and portion “Residential R15”.
6. Lot 8 Tuart Street from Reserve for “Parks and Recreation” to “Residential R40”.

Two separate scheme amendments have been initiated for the subject sites being the current proposed Amendment No 20 for sites 1 to 4 as outlined above and proposed Amendment No 21 for sites 5 and 6 as outlined above.

A separate amendment was initiated for sites 5 and 6 in view of environmental issues to be addressed for the sites which are identified as containing a Resource Enhancement category EPP wetland and potential Acid Sulphate soils risk. This amendment will be reported separately to Council following advertising for public comment.

The current proposed Amendment 20 for sites 1 to 4 as outlined above was advertised for public comment for a period of 42 days and a total of 8 submissions were received. 4 submissions were received from Government agencies and 4 submissions were received from the general public.

The subject land is considered by the Land Rationalisation Working Group as generally surplus to requirements for the current reserve purposes and it is proposed to rezone the respective sites so that the land can be disposed of as necessary.

Proceeds from the disposal of Crown land vested for Parks and Recreation will be utilised for capital works on public open space in close proximity to the subject area which are yet to be determined.

The proceeds from disposal of Council owned freehold land will assist funding projects of regional significance as identified in Council’s Corporate Plan.

Submissions have been received in regard to each of the four sites that are proposed to be rezoned. Details of the submissions are discussed in the report and the Schedule of Submissions.

It is recommended that Council resolve to finally adopt Amendment No 20 to the City of Bunbury to rezone all or portions of the following properties as discussed below:

1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from Reserve for “Public Purpose- Drainage” to “Mixed Business”.
2. Portions of Lot 454 Richter Road, Davenport from “Industry” and Reserve for “Parks and Recreation” to “Industry” , “Local Distributor Road” and Reserve for “Parks and Recreation”.
3. Lot 28 Mangles Street from Reserve for “Public Purpose -, Water Supply” to “Residential R 15”.
4. Reserve 31945 Harrison Place from Reserve for “Parks and Recreation ” to “Residential R40”

Lot 33 Strickland St, Lot 33 Denning Road and Reserve R41676

The subject land has a total area of 9,740 sq.m. Lot 33 Strickland Street and Lot 33 Denning Road are owned freehold by the City and Reserve 41676 is Crown land vested with the City for Drainage purposes. The subject land is also reserved for public purpose Drainage under TPS No 7.

A location plan and aerial photograph of the subject land are **attached** at Appendix 7.

The area is currently utilised for drainage purposes. It is considered that the existing open drain could be piped and filled at an estimated cost of approximately \$400,000. A major land owner in the locality has expressed an interest in acquiring the overall reserve area for future development in association with development of adjoining properties.

An easement would be required to be retained over the piped drain in favour of the City to enable access for maintenance or any required works. No buildings would be able to be built over the easement area, however it could be utilised for car parking, access or landscaping requirements for future development of adjoining properties.

It is generally considered that piping and filling of the drain will maintain the current drainage function of the land, improve the amenity of the locality and facilitate new development in accordance with the Mixed Business Zoning of the land. The subject land could be developed independently or amalgamated with an adjoining property.

The subject area is also currently not serviced with reticulated sewerage. It is proposed as a condition of sale of the land that the purchaser be required to install sewerage infrastructure to service the adjoining properties.

Submissions

One submission was received in regard to the proposal outlining an interest in purchasing a small portion of the drain area fronting Strickland Street. The submission also suggests that the majority of the drain reserve could be developed as a public road to facilitate rear access to existing lots on Denning Road and Mummery Crescent.

The suggestion to build a public road in the drain reserve is not supported as it is proposed to sell the whole of the land. Future sale of the land will need to be advertised providing opportunity for adjoining owners to acquire the subject land.

Verbal comments received during the submission period advise that some tortoise population lives in the drain area. It is noted that there is some tortoise population in the drain area. The tortoise is not a protected species, however, prior to any works on the drain area the proponent will be required to liaise with the Department of Environment and Conservation for management of any wildlife in the area.

It is recommended that Council resolve to finally adopt the amendment for rezoning Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from Reserve for "Public Purpose- Drainage" to "Mixed Business".

Lot 454 Richter Road

The subject land has an area of 2.7086 hectares. The land is owned in freehold by the City of Bunbury and is part zoned Industry and part reserved for Parks and Recreation under TPS No 7.

A location plan and aerial photograph of the subject land are **attached** at Appendix 8.

It is currently proposed to extend Brittain Road through the subject lot to create a four way intersection at Robertson Drive and South Western Highway. The road connection is proposed to facilitate improved access to the existing Industrial area.

It is proposed to reserve the proposed road alignment as a Local Distributor Road. Land to the south of the road alignment is to be reserved for Parks and Recreation purposes and land to the north is proposed to be rezoned to Industry - the plan **attached** at Appendix 9 indicates the proposed road alignment

The Parks and Recreation reserve area is currently proposed to be revegetated with native vegetation as part of an application to the Federal Department of Environment for clearing of vegetation required for the proposed road connection.

Land to the north of the road alignment can be rezoned to Industry and potentially amalgamated with existing adjoining industrial lots.

Submissions

One submission from the Water Corporation advises that there is existing sewerage pressure main within the subject land. The existing infrastructure is not affected by the proposed road alignment.

It is recommended that Council resolve to finally adopt the amendment for rezoning Portions of Lot 454 Richter Road, Davenport from “Industry” and Reserve for “Parks and Recreation” to “Industry” , “Local Distributor Road” and Reserve for “Parks and Recreation”.

Lot 28 Mangles Street

The subject land has an area of 1,054 sq.m. The land is owned in freehold by the City of Bunbury and is currently reserved for Public Purpose - Water Supply under TPS No 7.

A location plan and aerial photograph of the subject land are **attached** at Appendix 10.

Land adjacent and opposite the subject land is generally zoned Residential R15. It is proposed to rezone the subject site to Residential R 15. This would accommodate development of one dwelling on the site.

Submissions

Three submissions were received from nearby residents. Two submissions outlined concerns with regard to sight lines for vehicles turning at the intersection of Nevin Court from Mangles Street. Concerns were raised in regard to future buildings or boundary fences and existing shrub vegetation on the verge area blocking sightlines from the intersection.

To address the sight line issue it is recommended that the road verge be increased in accordance with the attached plan. It is proposed that the boundary of the rezoning area be modified to reflect the increased road reserve. The recommended road reserve widening is shown on the plan **attached** at Appendix 11.

The third submission outlines concerns with possible loss of possum habitat in the locality. The submitter requests that lot 28 along with existing lots 29, 30 and 31 be rezoned as parkland/ reserve to ensure preservation of the natural vegetation and possible Western ringtail possum habitat.

The Western Ringtail possum is a protected species, hence approval of the Federal Department of Environment would be required prior to any clearing of land. Preliminary investigation of the site indicates that lot 28 is essentially cleared of significant vegetation and is unlikely to contain possum habitat.

Adjoining lot 29 is also largely cleared while lots 30 and 31 are generally well vegetated with significant stands of remnant Peppermint woodland. Prior to any clearing of the subject land a possum survey will be required to be undertaken.

It is recommended that the amendment be modified to rezone lots 30 and 31 from “Residential R15” to “Reserve for Parks and Recreation” and retain lot 29 in the “Residential R 15” zone together with the proposed rezoning of Lot 28 to “Residential R15”. Refer to the plan **attached** at Appendix 12.

One submission advised that the on site advertising sign had fallen over and requested that the proposal be further advertised for public comment. It is not considered that further advertising is warranted as the significant issues raised in the three submissions received as outlined above have been considered.

The amendment has been advertised in accordance with Statutory requirements. The proposal has been advertised for 42 days including an on site sign and advertising in the local newspaper.

Verbal comments received from Aqwest indicate that a portion of Lot 28 and adjacent lots 29 and 30 contain a batter slope and fence associated with a drainage sump/soakwell associated with the Water reservoir site. Aqwest officers are currently investigating requirements for modification or relocation of the drainage sump.

Subject to finalisation of Aqwest requirements for the drainage sump the existing lot boundaries for lot 28 and 29 may need to be modified to exclude the drainage sump requirements. Also, it is proposed to include a 5 metre wide easement on lot 29 to ensure that an appropriate fire break is provided and maintained on the property.

It is recommended that Council resolve to finally adopt the amendment for rezoning Lot 28 Mangles Street from Reserve for “Public Purpose - Water Supply” to “Residential R 15” subject to:

- a) modification of the zoning area boundary of lots 28 and 29 to reflect the proposed road reserve widening at the intersection of Mangles Street and Nevin Court
- b) rezoning Lots 30 and 31 Mangles Street from “Residential R15” to “Reserve for Parks and Recreation”.

Reserve 31945 Harrison Place

The subject land has an area of 859 sq.m. The land is Crown Land vested with the City for the purpose of public recreation. The site is also reserved for Parks and Recreation under TPS No 7.

A location plan and aerial photograph of the subject land are **attached** at Appendix 13.

The site is located adjacent to Wattle Hill lodge and adjoining residential land is zoned Residential R40. It is proposed to rezone the site to Residential R40 which would accommodate 3 dwellings based on the average lots size requirement of 220 sq.m under the Residential Design Codes.

The subject land could be developed independently or amalgamated with an adjoining property.

Submissions

One submission from South West Planning, Department for Planning and Infrastructure outlines that disposal of the reserve is not supported at this time as the reserve was intended as a buffer between the Aged Care Facility and residential properties.

The reserve was created as buffer to an adjoining residential property when the Wattle Hill Aged Care facility was expanded at the request of the adjoining residential lot owner. The subject property has subsequently changed hands and the new owner has approached the City to acquire the reserve land.

Discussions with the operator of Wattle Hill Lodge indicate that they have no objection to deletion of the buffer subject to future development of the site not overlooking the Wattle Hill site. Any future development of the site will be assessed on the basis of the Residential Design Codes for setbacks and potential overlooking.

It is considered that the subject land is not required as a buffer and the boundary interface can be addressed with a boundary fence. The subject land is not generally suitable for recreation use in view of its topography and narrow shape.

Discussions with the operator of Wattle Hill Lodge indicate that they have no objection to deletion of the buffer subject to future development of the site not overlooking the Wattle Hill site. Any future development of the site will be assessed on the basis of the Residential Design Codes for setbacks and potential overlooking.

As the subject is reserved land approval of the Minister for Lands will be required prior to disposal of the land. It is recommended that Council resolve to finally adopt the amendment for rezoning Lot Reserve 31945 Harrison Place from Reserve for "Parks and Recreation" to "Residential R40"

Strategic and/or Regional Outcomes

The recommended rationalisation programme complies with the *City of Bunbury 2007– 2012 Strategic Plan 2(a)* in that it provides support to the City's economy by developing the City's residential, tourism and commercial landholdings.

Community Consultation

The amendment was advertised for public comment for a period of 42 days and a total of 8 submissions were received. 4 submissions were received from Government agencies and 4 submissions were received from the general public.

Submissions related to each of the proposed sites to be rezoned. Details of the submissions are discussed in the report and the Schedule of Submissions.

Councillor/Officer Consultation

An outline of the proposed rationalisation programme was presented at a briefing session held with Councillors on 15 May 2007. Discussions have been undertaken by officers within Development Services and the other City officers in regard to the proposed development requirements.

Analysis of Financial and Budget Implications

The subject land is proposed for disposal. Proceeds received from disposal of Crown land vested for public open space will be utilised for upgrading public open space areas generally in the locality. Proceeds from disposal of freehold land owned by the City will be available for allocation to City development projects.

Economic, Social, Environmental and Heritage Issues

The availability of quality residential and industrial land promotes employment opportunities through development of the land and increased economic infrastructure. There are no known social reasons in respect of the proposal.

There are no heritage issues that have come to light as a result of this proposal. Environmental issues with individual sites can be appropriately addressed through the rezoning process or at time of any required works or development being undertaken.

Council Policy Compliance

There are no related Council policies to consider.

Legislative Compliance

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

Delegation of Authority

The Chief Executive Officer does not have delegated authority of Council to enact rezoning of land.

Relevant Precedents

Council has previously granted consent for rezoning surplus Council owned land prior to disposal including Lot 66 Ocean Drive (13 February 2007), Lot 610 Maiden Park Road (7 December 2004) and Lot 779 Lockwood Crescent (8 February 2005).

It should be noted that final approval rests with the Minister for Planning and Infrastructure.

Options

Option 1

Per the recommendation printed in this report.

Option 2

Per the recommendation printed in this report (with any amendments as identified by the Council).

Option 3

Council resolves to discontinue the proposal for rezoning/ subdivision of the following land:

1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676.
2. Portions of Lot 454 Richter Road, Davenport.
3. Lots 28, 29, 30 and 31 Mangles Street.
4. Reserve 31945 Harrison Place.

Conclusion

The proposal is to rezone various portions of reserved land for various purposes. The subject land has been identified as generally surplus to requirements for the current reserve purposes and it is proposed to rezone the respective sites so that the land can be disposed of as necessary.

It is recommended that Council resolve to finally adopt Amendment No 20 to the City of Bunbury to rezone all or portions of the following properties as discussed below.

1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from Reserve for "Public Purpose- Drainage" to "Mixed Business".
2. Portions of Lot 454 Richter Road, Davenport from "Industry" and Reserve for "Parks and Recreation" to "Industry" , "Local Distributor Road" and Reserve for "Parks and Recreation".
3. Lot 28 Mangles Street from Reserve for "Public Purpose -, Water Supply" to "Residential R 15".
4. Reserve 31945 Harrison Place from Reserve for "Parks and Recreation " to "Residential R40"

Recommendation

1. 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 grant final approval for Amendment No. 20 to Town Planning Scheme No. 7, to rezone :
 - 1.1. Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from "Reserve for Public Purpose-Drainage" to "Mixed Business".
 - 1.2. Portions of Lot 454 Richter Road in Davenport from "Industry" and "Reserve for Parks and Recreation" to "Industry", "Local Distributor Road" and "Reserve for Parks and Recreation".
 - 1.3. Lot 28 Mangles Street from "Reserve for Public Purpose-Water Supply" to "Residential R 15" subject to:
 - a) Modification of the zoning area boundary of Lots 28 and 29 to reflect the proposed road reserve widening at the intersection of Mangles Street and Nevin Court.
 - b) Rezoning Lots 30 and 31 Mangles Street from "Residential R15" to "Reserve for Parks and Recreation".
 - 1.4. Reserve 31945 Harrison Place from "Reserve for Parks and Recreation " to "Residential R40".
2. Forward the signed and sealed Scheme Amendment documents to the Minister for Planning and Infrastructure via the Western Australian Planning Commission, with a request for final approval.

Outcome of the Council Committee Meeting - 11 March 2008

The Presiding Member, Mayor David Smith, disclosed an impartiality interest as Lot 28 Mangles Street adjoins land that is currently subject of a land transaction between the City of Bunbury and Aqwest and he is a member of the Aqwest Board. He elected to leave the meeting but before doing so, requested the committee make a formal decision declaring his interest trivial as the sale of Lot 28 Mangles Street will not benefit Aqwest financially in any way. The Mayor left the meeting at 7.36pm.

Councillor Lorna Worthington disclosed a proximity interest as Lot 28 Mangles Street (subject of the rezoning proposal) adjoins her residential property by way of a common boundary. Before leaving, Cr Worthington requested committee members to make a formal decision allowing her to take part in debate (but not vote) as she is representative of the community members that have spoken to her on this matter. She indicated that the extent of her interest does not represent personal financial gain/loss. Cr Worthington left the meeting at 7.36pm.

Cr Jones was requested to preside at the meeting in the Presiding Member's absence as the Deputy Presiding Member was not in attendance at the meeting.

Cr Dillon moved, Cr Jones seconded the following motion, which was carried 7 votes "for" to 1 vote "against" to become a committee decision:

Committee Decision - Interest Trivial

Mayor David Smith's interest be declared so trivial or insignificant as to be unlikely to influence his conduct in relation to the item and he be requested to re-join the meeting and take part in the discussion and the vote.

Cr Steck moved, Cr Jones seconded a motion that: *"Cr Worthington be permitted to re-join the meeting to make a presentation on Lot 28 Mangles Street only."* The motion was put to the vote and defeated 3 votes "for" to 5 votes "against".

The Presiding Member, Mayor David Smith, returned to the meeting at 7.56pm.

The recommendation (as printed) was moved Cr Dillon, seconded Cr Steck to become the motion under discussion.

During discussion, the following points were raised:

- Cr Worthington and residents in the vicinity of Lot 28 Mangles Street should document their concerns and submit this to the Council prior to next week's Council Meeting.
- It was confirmed that BESAC does not have the necessary charter to review the land put forward for rationalisation under its existing Terms of Reference.
- Any treatment of the verge at the intersection of Nevin Court and Mangles Street will conform to the appropriate standards and will be undertaken to the satisfaction of the City's engineer.
- Ms Mary Williams, a resident living at 42 Mangles Street, was invited to voice her concerns. Ms Williams indicated that the residents of Nevin Court consider the turn-out from Nevin Court into Mangles Street to be potentially dangerous as the natural hilly topography of the land and bends in the road at this point obstruct the view of oncoming traffic. They consider that any buildings or fences on this corner would only exacerbate the problem.

The Presiding Member was requested to put each part of the motion to the vote separately. Results of the votes were as follows:

- Part 1: Carried (9 votes "For" / nil votes "Against")
- Part 1.1: Carried (9 votes "For" / nil votes "Against")
- Part 1.2: Carried (5 votes "For" / 4 votes "Against")
- Part 1.3: Lost (4 votes "For" / 5 votes "Against")
- Part 1.4: Carried (8 votes "For" / 1 vote "Against")
- Part 2: Carried (9 votes "For" / nil votes "Against")

The committee's recommendation reads as follows:

Committee Recommendation

- 1. 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 grant final approval for Amendment No. 20 to Town Planning Scheme No. 7, to rezone :**
 - 1.1 Lot 33 Strickland Street, Lot 33 Denning Road and Reserve R41676 from "Reserve for Public Purpose-Drainage" to "Mixed Business".**
 - 1.2 Portions of Lot 454 Richter Road in Davenport from "Industry" and "Reserve for Parks and Recreation" to "Industry", "Local Distributor Road" and "Reserve for Parks and Recreation".**
 - 1.3 Reserve 31945 Harrison Place from "Reserve for Parks and Recreation " to "Residential R40".**
- 2. Forward the signed and sealed Scheme Amendment documents to the Minister for Planning and Infrastructure via the Western Australian Planning Commission, with a request for final approval.**

Cr Worthington returned to the meeting at 8.40pm.

11.7 LEASE OF PORTION NEW LIBRARY BUILDING AT LOT 512 PARKFIELD STREET, BUNBURY FOR USE AS AUSTRALIAN CENTRE FOR DIGITAL INNOVATION ("ACDI") *(WAS LISTED AS ITEM 11.5 ON THE MEETING AGENDA)*

File Ref:	A02351
Applicant/Proponent:	VUE DC Group/ISA Technologies Pty Ltd ("Joint Venture Group")
Author:	John Beaton, Manager Administration & Property Services
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

At its meeting on 27 November 2007, the Council decided to lease approximately 500 sq.m of the New Library Building at \$200 per sq.m to a Joint Venture Group for the purpose of establishing an Australian Centre for Digital Innovation ("ACDI"). This equates to \$100,000 in lease rental for the first 12-months of the lease based on the unimproved lease of the premises.

In accordance with the terms for standard commercial leases the applicants ("the lessees") would also be responsible for meeting the cost of all normal outgoings for the leased site currently estimated at \$60.00 per sq.m but to be charged at 'actual' cost plus GST when known.

The applicants seek Council's consideration to amend the method for calculation of annual lease rental and contributions to outgoings during the initial ten (10) year term of the lease from annual reviews to periodic reviews. As indicated in the comparison tables below, the applicants have specifically requested the following:

- Rental to be fixed at \$200 per sq.m for the first 3 years then increased by annual CPI index every 2 years thereafter for the remainder of the initial 10 year term.
- Outgoings to be capped at \$50 per sq.m for the first 3 years then CPI indexed every 2 years thereafter for the remainder of the initial 10 year term.

(see over for comparison tables)

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Comparison Tables - ACDI Lease Rental Calculations

[Note: The CPI rate of 4% in the following tables is for illustrative purposes only]

Proposed by Applicants:
(periodic review)

Year	Rent p/sq.m excl. GST	CPI %	Rent Per Year (500 sq.m)
1	\$200.00	-	\$100,000.00
2	\$200.00	-	\$100,000.00
3	\$200.00	-	\$100,000.00
4	\$208.00	4.0	\$104,000.00
5	\$208.00	-	\$104,000.00
6	\$216.32	4.0	\$108,160.00
7	\$216.32	-	\$108,160.00
8	\$224.97	4.0	\$112,486.40
9	\$224.97	-	\$112,486.40
10	\$233.97	4.0	\$116,985.86
Total:			\$1,066,278.66

Proposed by City of Bunbury:
(annual review)

Year	Rent p/sq.m excl. GST	CPI %	Rent Per Year (500 sq.m)
1	\$200.00	-	\$100,000.00
2	\$208.00	4.0	\$104,000.00
3	\$216.32	4.0	\$108,160.00
4	\$224.97	4.0	\$112,486.40
5	\$233.97	4.0	\$116,985.86
6	\$243.33	4.0	\$121,665.29
7	\$253.06	4.0	\$126,531.90
8	\$263.19	4.0	\$131,593.18
9	\$273.71	4.0	\$136,856.91
10	\$284.66	4.0	\$142,331.18
Total:			\$1,200,610.71

Comparison Tables - ACDI Outgoings Calculations

[Note: The CPI rate of 4% in the following tables is for illustrative purposes only]

Proposed by Applicants:

Year	O/goings Per Year (500 sq.m) at \$50 excl GST	CPI %	Total Contribution Per Year
1	\$25,000	-	\$25,000
2	\$25,000	-	\$25,000
3	\$25,000	-	\$25,000
4	\$25,000	4.0	\$26,000
5	\$26,000	-	\$26,000
6	\$26,000	4.0	\$27,040
7	\$27,040	-	\$27,040
8	\$27,040	4.0	\$28,122
9	\$28,122	-	\$28,122
10	\$28,122	4.0	\$29,247
Total:			\$266,571

Proposed by City of Bunbury:

Year	O/goings Per Year (500 sq.m) at \$60 excl GST	CPI %	Total Contribution Per Year
1	30,000	-	30,000
2	30,000	4.0	31,200
3	31,200	4.0	32,448
4	32,448	4.0	32,746
5	32,746	4.0	35,096
6	35,096	4.0	36,500
7	36,500	4.0	37,960
8	37,960	4.0	39,478
9	39,478	4.0	41,057
10	41,057	4.0	42,699
Total:			\$359,184

The request amounts to an estimated \$134,332.06 reduction in rental and a further estimated \$92,613 reduction in the Joint Venture's contributions to outgoings for the leased area.

Background

At its meeting on 17 August 2004, the Council decided to construct a new library on the site of the existing library at Lot 512 Parkfield Street, Bunbury. Later that year (21 December 2004) the Council decided to endorse a proposal to investigate co-location of the Library with a "Smart Building". Subsequently, on 20 September 2005, the Council made a further decision to endorse the construction of a library, business incubator, ICT training facility and data centre on the old library site together with provision of associated car-parking bays.

The land on which the new library is to be constructed is currently vested in the City for use as "Municipal Buildings and Car Park". It is anticipated that in the short to mid term, the amount of space available for library services in the new building will actually exceed the City's requirements and in order to better manage the space available it is proposed to lease a portion of the premises (approximately 500 sq.m of the ground floor) to a Joint Venture Group comprising technology companies VUE DC Group and ISA Technologies Pty Ltd, for creation of an Australian Centre for Digital Innovation or ACDI.

The Minister for Lands requires the intended use of the New Library Building to be of a nature that is ancillary or beneficial to the primary use of the site and that is consistent with the current zoning for the land. Accordingly, the Ministry has used its delegated authority to grant 'in principle' approval for the proposed ACDI under Section 75(6) of the *Land Administration Act 1997* subject to the draft lease agreement being presented for consideration by the Minister's Department prior to its final execution.

On 27 November 2007, the Council entered into a *Memorandum of Understanding* with the proponents for establishment and operation of the ACDI on the leased premises and agreed to enter into a lease agreement for an initial term of 10 years.

Other background information concerning the history and service delivery of both companies involved in the Joint Venture Group, details of the joint venture and perceived benefits and outcomes for Bunbury; were provided in a report to the Council on 27 November 2007.

Strategic and/or Regional Outcomes

This proposal can be directly linked to the *City of Bunbury Strategic Plan 2007-2012* Strategic Objective 3.2, "*Have well planned, developed and maintained City Infrastructure to identify and prioritise infrastructure needs*" and Strategic Direction 2.4 which states that the City will "*develop a property strategy that benefits the City's residents, businesses, community and sporting organisations*".

Community Consultation

The City advertised its intention to lease a portion of the new library to a joint venture group for the purpose of an ACDI (and advertised a Business Plan outlining the proposal) in the *South Western Times* on 6 December 2007, *The West Australian* on 8 December 2007 and the *Bunbury Mail* on 9 January 2008. Public notices were also displayed on Council's Library

Notice Boards, Customer Service Centre and the City's website. The submission period closed on 31 January 2008.

The Business Plan outlined the names of parties involved in the Joint Venture to whom it is proposed the area will be leased.

Councillor/Officer Consultation

His Worship the Mayor, Chief Executive Officer and other Council officers have been in regular contact with the proponents. The local working group included representatives from the South West Development Commission, Edith Cowan University and Chamber of Commerce.

The Council has considered the lease and joint venture at previous Council Meetings the most recent being 26 February 2008.

A copy of the draft lease is being prepared by Council's solicitor and a copy will be issued to councillors as soon as it is available.

Analysis of Financial and Budget Implications

As stated under the heading "Summary" in this report, the request by the applicants would amount to an estimated \$134,332.06 reduction in rental and a further estimated \$92,613 reduction in the Joint Venture's contributions to outgoings for the term of the lease.

Approval of the lease is still subject to Council being successful in obtaining \$450,000 in grant funding from the Federal or State Governments to contribute towards the visual and special effects laboratories to be located within the Australian Centre for Digital Innovation.

Economic, Social, Environmental and Heritage Issues

Leasing out excess floor space at the new Library makes economic sense as it will ensure the floor space is not wasted and will be making a return to Council (and the community) until it is needed for future library expansion.

Establishment of the Australian Centre for Digital Innovation ("ACDI") will provide employment for local residents in information technology and film making. Up to two hundred part time employees may also be required for film production work as a flow-on effect of the Centre's operations.

The ACDI will provide local groups and businesses with access to state of the art technologies (includes super computing or HPC) for simulation and modelling in areas including emergency services and community use of internet video-over-broadband communications and virtual environments.

A condition of the proposed lease would be that the Centre Operator is to ensure that the working environment at the Centre complies with legislative requirements in relation to environmental health and the safety of its employees and customers.

There are no "heritage" matters to consider.

Council Policy Compliance

There is no Council policy in relation to this proposal.

Legislative Compliance

Section 3.58(3) of the Local Government Act 1995 has been complied with concerning the lease of the premises.

At its meeting on 26 February 2008, the Council resolved that the draft lease be returned to Council for final consideration prior to being signed by all parties. Accordingly, it is necessary for the Council to resolve the subject of this report to Council (i.e., application to amend rental and outgoings) before the parties will be in a position to agree on a draft suitable for consideration by the Council.

It should be noted that once all parties to the lease agree on terms and conditions (and the Council subsequently authorises the lease for signing), the approval of the Minister for Lands will need to be sought before the lease can be finalised.

Delegation of Authority

Per Decision No. 18/08 made at its meeting on 26 February 2008, the Chief Executive Officer is authorised to negotiate with the proponents with regard to the lease agreement for the ACDI but the document must be referred back to Council for approval before execution.

Relevant Precedents

The City regularly leases Council-owned or managed buildings. The basis for this lease agreement is a standard commercial lease.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Annual lease rental to be calculated at \$200 plus GST on the commencement date, then indexed by CPI 1st year, CPI 2nd year and a Market Rental Valuation 3rd year with this cycle to repeat throughout the term and the further 'extension to lease' options.

Option 3

Council agrees to amend the annual lease rental and outgoings for the proposed lease of approximately 500 sq.m of the New Library Building to VUE DC Group and ISA Technologies Pty Ltd ("the Joint Venture") as stated in this report.

Recommendation

Council advises as follows in respect of an application from VUE DC Group and ISA Technologies Pty Ltd for a reduction in rental and outgoings for their lease of approximately 500 sq.m portion of the New Library Building at Lot 512 Parkfield Street, Bunbury:

1. Annual lease rental is to be calculated at \$200.00 (plus GST) per square metre and indexed by CPI annually for the first 10 years of the lease, reviewed at market rental at the time of commencement of any renewal option, and; indexed to CPI annually for the balance of each additional term.
2. The lessee's contribution to outgoings is to be fixed to the 'actual' cost (plus GST) during the term of the lease.
3. The draft lease to be referred to the proponents and the City's Chief Executive Officer is authorised to approve any minor variations proposed by either Council or the proponent's solicitors.

Outcome of the Council Committee Meeting - 11 March 2008

Councillor Helen Punch disclosed an impartiality interest as her spouse is the Chief Executive Officer of the South West Development Commission which is involved in the negotiations for the ACDI. She left the meeting at 8.41pm for the duration of discussion and the vote on this matter.

The meeting was advised that representatives of the Joint Venture Group had indicated they would like a little more time to consider the recommended terms and conditions before the Council makes a final decision on this matter.

Cr Dillon moved, Cr Leigh seconded the following motion, which was carried 9 votes "for" to nil votes "against" to become the committee's recommendation on this matter:

Committee Recommendation

Adjourn a decision on this matter until the Council Meeting on 18 March 2008.

Cr Punch returned to the meeting at 8.50pm.

11.8 BUNBURY INNER HARBOUR STRUCTURE PLAN

File Ref:	A01109
Applicant/Proponent:	Bunbury Port Authority
Author:	Kelly Shore, Strategic Planner and Thor Farnworth, Senior Town Planner (Strategic & Environment)
Executive:	Geoff Klem, Executive Manager City Development

Summary

The Bunbury Port Authority (BPA), with the assistance of consultants, has undertaken the preparation of a structure plan for the Bunbury Port Inner Harbour - this has been circulated to members under separate cover.

For ease of reference:

- Appendices 2 to 5 of the Draft Structure Plan are **attached** Appendix 17.
- A copy of clause 5.9.13 and Table No. 1 (Zoning Table) from the City of Bunbury Town Planning Scheme No. 7 are **attached** at Appendix 18.

The proposed draft “Bunbury Port Inner Harbour Structure Plan” (herein referred to as “Draft Structure Plan”) is the culmination of several previously drafted options for the Inner Harbour. After community consultation and meetings with various stakeholders and the City, the BPA has submitted to Council for public advertising its proposed Draft Structure Plan. The Draft Structure Plan report was submitted with supporting technical and environmental reports, as Appendices, which should be included as part of the information provided during any public advertising period of the Draft Structure Plan.

It is proposed that the Draft Structure Plan, and supporting studies, be publicly advertised on a without prejudice basis for a period of 42 days pursuant to the Planning and Development Act 2005 and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7. As the Draft Structure Plan may be deemed a ‘Strategic Proposal’ by the Environmental Protection Authority (EPA), it is proposed that the Draft Structure Plan be referred to the EPA for its assessment under Section 37B of the Environmental Protection Act 1986. Following the public advertising period all submissions made by the general public and advice given by the EPA, and any other relevant public authority, will be presented to Council with any proposed modifications to the Draft Structure Plan for its consideration to adopt.

Background

Due to the projected growth of the shipping export industry and the Bunbury Port Authority’s ownership of an additional 370 hectares of undeveloped land, the formulation of a local structure plan for the expansion of the Inner Harbour has been proposed, which has been in preparation since 2005. To satisfy the legislative requirements of the Planning and Development Act 2005, and TPS7 (designated Development Investigation Policy Area

(DIPA), Council must adopt a structure plan that is endorsed by the Western Australian Planning Commission (WAPC), to permit any further granting of planning approvals within the Port.

Proposal

The Draft Structure Plan is presented to Council for its consideration to formerly advertise the document for public comment and for referral to all relevant public authorities.

Scope of the Draft Structure Plan

The development of the Draft Structure Plan and the decision making process for its assessment is detailed in the Draft Structure Plan report, according to the following headings: Introduction and Background – which addresses: the purpose and intent of the structure plan, location and site description, technical data and legislation and historical context of the Inner Harbour. Planning Framework – which addresses: State Planning Policy, the Greater Bunbury Region Scheme (GBRS), Industry 2030, Bunbury Wellington Region Plan (1995), TPS7, City Vision Strategy, Bunbury Strategic Plan 2002-2007, Bunbury Integrated Land Use and Transport Vision 2030 and the adjoining structure plans for Glen-Iris and Moorlands and Turkey Point. Regional Context; District Context; The Structure Plan Process; Environmental Appraisal; Inner Harbour Structure Plan; Implementation.

Specifications of the Draft Structure Plan

Figure 20 – Structure Plan on page 62 of the Draft Structure Plan report is the principal map of concern, which shows a consolidation of the land use and infrastructure elements of the proposal. This map is critical, as it will form the basis for any statutory planning instruments in the assessment of future applications for planning approval that the City is required to assess under the Scheme.

Consequently, any structure plan map must be sufficiently detailed and cadastrally accurate, and is ideally represented in hard copy map sheets and electronic drawing files at a scale of not less than 1:5000. A structure plan must also be composed of both map and text, which may include supplementary provisions or conditions for the regulation of subdivision, land use and development specific to that locality. In its present form, the Draft Structure Plan report has not been drafted in a manner that clearly differentiates the supporting information of the report from the statutory or legal elements of the Structure Plan. It is envisaged that there will need to be reformatting of the report to better differentiate the peripheral supporting information from the regulatory sections.

The justification for the arrangement of the “Indicative Land Uses” shown in Figure 20 – Structure Plan map has been determined by stepping through Tables 1, 2 and 3 of the Draft Structure Plan report. The Indicative Land Uses are based on relative impact zones that were derived from assumed/modelled impacts generated by potential indicative land use activities. The rationale for the arrangement of Indicative Land Uses seeks to expose sensitive use areas to the least amount of noise, dust, and hazardous material impacts. The following paragraphs

explain how to use the Draft Structure Plan by providing a summary of the tables and how they are intended to relate to each other.

Application of the Draft Structure Plan

“Table 1: Separation Distances between Port Industry Uses and Sensitive Land Uses” is an extract from the EPA’s Guidance for the Assessment of Environmental Factors No 3 – Separation Distances Between Industrial and Sensitive Land Uses (June, 2005) (refer to Appendix 1), which assists the land use planning process with categories of gradation from most to least impact. This information is then translated and expressed in relation to the Port’s proposed land use arrangements in “Table 2: Guide to indicative Impacts of Indicative Land Uses” (refer to Appendix 2). This table interprets which land use classes are high impact uses, down to low impact uses.

Using the assumed impacts to create a statutory framework listed in Tables 1 and 2, the Draft Structure Plan proposes under Table 3, to create a framework for decision-making in exercising discretion for the granting of planning approvals within the “Port Industry Zone” under the Scheme.

“Table 3: Applying Town Planning Scheme No 7 Use Classes to Indicative Land Uses” (refer to Appendix 3) is an expanded interpretation of “Table 1 – Zoning Table” of TPS7 (refer to Appendix 4). This approach is generally supported, however advice from the DPI is required on the appropriateness of using use class permissibility symbols (as used within Table 1 – Zoning Table of the Scheme) that redefine the levels of permissibility within a subservient Structure Plan.

As a case example, the stockpiling of mineral sands would reasonably be expected to require a buffer distance of 1000-2000 metres under Table 1 (p.43) of the Draft Structure Plan. Further, such activity could reasonably be considered to fall within a “Medium Impact Use” class under Table 2 (p.47) as it has potential for “moderate dust including shipping loading and unloading” under column 3 of the table. Figure 14 identifies the mineral sands facilities as having a medium relative noise level, and Figure 15 identifies the site as having a medium relative dust level. Under Figure 16 the site has a medium relative degree of risk for that portion of the facility located against the inner harbour. Consequently, Figure 20 includes the majority of the site within the “Medium Impact Use” class.

Under the Draft Structure Plan, the locating of additional activities like the present mineral sands facilities within the area defined by berths 3 to 13 for stockpiling will not require planning approval from the City, but instead can only be permitted and regulated through EPA licensing. The use class “Storage” under Table 3 (p.48) would be permissible as a “D” discretionary use, but would only be expected to apply where the material being stored was not directly related to a ‘Port Activity’. That is, a material not being transited or stockpiled prior to loading/unloading of a ship. Therefore, additional stockpiling in the area defined by berths 3 to 13 may occur regardless of the Structure Plan in the absence of any additional Environmental Conditions attached to the Draft Structure Plan.

Uses Under the Draft Structure Plan

The existing uses conducted at the Inner Harbour are:

- coal storage (historically only for power station, but intended for major exportation);
- mineral sands facilities;
- woodchip facilities (a processing use that is not a 'Port Activity');
- woodchip storage;
- alumina facilities; and
- bulk storage.

In addition to the continuation and/or expansion of the above uses, the Draft Structure Plan will enable the potential for an extended range of uses according to the "Indicative Land Use Classes". Of particular note is the introduction of an extensive area for container storage and undefined low, medium and high impact uses in addition to its present stockpiling activities. The designation of low, medium and high impact Indicative Land Use Classes will provide the rationale for locating future general, hazardous and noxious industry use classes that permit processing activities.

In summary, the Draft Structure Plan includes the provision of:

- nine additional berths, bringing the total number of berths to fourteen (not including the outer harbour);
- the expansion and the intensification of port and other industry land uses;
- the realignment of the Preston River; and
- a new internal road and rail network allowing more efficient intermodal transport use in the loading and unloading of ships, and bulk storage.

Strategic and/or Regional Outcomes

Strategic Land Use and Infrastructure Planning

The State Planning Strategy 1997 identifies Bunbury Port as a "Secondary Strategic Transport Gateway", and places great emphasis on "Ensuring the protection of ports and strategic industrial sites and their associated road and rail access corridors is a priority in regional and local plans". The Regional Strategy for the South West states as one objective to "Secure longer term functioning of major transport infrastructure, such as the Port of Bunbury, in determining suitable buffer zones in accordance with the State Buffer Policy". (Reference State Planning Strategy 1997, Western Australian Planning Commission, 1997, (p.72)) Therefore, this Draft Structure Plan seeks to provide the land-use planning framework for the achievement of the above objective in relation to maximising the Port's capacity and potential.

City Vision Strategy

The City Vision Strategy acknowledges the strategic importance that the Port plays in the local and regional economy as demonstrated by the following “The Bunbury Port is essential infrastructure that supports major exporting industries. Further development of primary resources within the region, including down stream processing, will be largely dependent upon the capacity and efficiency of the port. Planning for the port and its surrounds must maximise the area for unconstrained expansion that includes provision for the handling of containers”.(Reference City Vision Strategy, City of Bunbury, 2007(p.158)). The following are the main recommendations from the City Vision Strategy in relation to the future planning and operation of the Inner Harbour.

Composite Recommendations:

“PRT1: That a management plan be prepared for the Preston River that aims to improve the river environs by enhancing its natural values and upgrading the built components so that they make a positive contribution to the character and amenity of the City.

PRT2: That the Turkey Point Master Management Plan be progressively implemented.

PRT3: That a management partnership be established between the State Government and the City for the planning and ongoing management of the Preston River, Leschenault Estuary and Turkey Point.

PRT4: That planning for sport and recreation facilities in proximity to the port include an analysis of the impact of use on the operation of the port and any public exposure to risk and hazard.

PRT5: That structure planning for the Bunbury Port must ensure that port activities meet environmental standards for cumulative impacts, promotes the early relocation of activities from the Outer Harbour, promotes the early construction of the Picton to port heavy haulage road, acknowledges the importance of the adjoining recreation areas of Koombana Beach and Turkey Point and requires further structure planning for the land between the Preston River realignment and the Australind Bypass.

PRT6: Consistent with the Port Structure Plan, ensure early construction of the Picton to port haul road.”

Strategic Corporate Planning

The Bunbury Strategic Plan 2007-2012, states as a Goal “Attracting investment” which identifies the following five year targets relevant to this proposal:

- Outer Harbour Development;
- Eelup Roundabout Overpass;
- Bunbury Port Road; and
- Outer Bunbury Bypass Road.

As a consequence of the City Vision Strategy's recommendations, Strategic Objective 4 – Implement City Vision, supports progressing the structure planning of the Inner Harbour.

Under Strategic Objective 6: Develop Social Capital, Strategy 6.2: Community Participation, Partnership and Support states, "Everyone in the community has the opportunity to actively participate in the public affairs and planning for the City." Therefore in progressing the Draft Structure Plan the City should seek to ensure that the community and stakeholders are given adequate opportunity to provide comment on the proposal during the public advertising period, and that submissions appropriately inform the preparation of the final draft of the Structure Plan.

Community Consultation

To date the BPA has sought community and stakeholder input in the preparation of the Draft Structure Plan through:

- public forums;
- meetings with landowners, especially owners within the structure plan area;
- a community workshop (March, 2006) held at the Lord Forrest Hotel;
- Port Liaison Group;
- various media releases; and
- the Bunbury Port Authority website and newsletter Portal.

In accordance with the Planning and Development Act 2005, the Town Planning Regulations 1967 and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7, the proposed Draft Structure Plan is to be referred to all relevant state government agencies and publicly advertised for comment during a formal advertising period of at least 42 days.

Councillor/Officer Consultation

The BPA provided a presentation on a preliminary draft of the Structure Plan at a Council Briefing Session on the 8 May 2007. Officers of Development Services, and other City staff, have also sought to contribute to the design process at all opportunities provided by the BPA. Specifically, the contribution of the City's Principal Environmental Health Officer and the Environment Officer.

Analysis of Financial and Budget Implications

The financial implications of the proposal on the City's Annual Budget have not been quantified.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The full economic impacts, both positive and negative, resulting from the proposal have not yet been quantified.

Social Issues

It may be assumed that some level of social impacts will persist as a result of this proposal. However the nature and degree of those impacts on the affected community amenity and public health have not been fully quantified.

Environmental Issues

The following issues are ambiguous in the Draft Structure Plan report, or are issues that remain to be addressed through the conditioning and staging of the Structure Plan's implementation (eg. further studies in support of subsequent Scheme Amendments and development approvals):

- Investigations are required from the BPA to determine the affects of proposed dredging on marine fauna, in particular the affect of blasting noise on the approximate 80 dolphins that live in Koombana Bay. Liaison with the Dolphin Discovery Centre is required to manage impacts. The initial solution has been to guide the dolphins to safer areas during the dredging period.
- A permit is required under the Environmental Protection Act 1986, for clearing of vegetation and filling of wetlands designated under the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.
- A Port Buffer Definition Study is required by the WAPC in accordance with Statement of Planning Policy No. 4.1 - State Industrial Buffer Policy (SPP4.1) gazetted in 1997. The BPA is required to undertake the Port Buffer Definition Study in collaboration with the City and other relevant agencies before the final adoption of the Draft Structure Plan.
- A Special Control Area under the Local Planning Scheme will be required for land within the off-site buffer to be initiated by Council as a part of the Scheme Amendment. It can be expected that a Special Control Area will introduce additional development requirements for noise attenuation within sensitive land uses and notifications on Land Titles advising owners on the proximity of the Port.
- Potential for the EPA to impose Environmental Conditions under Schedule 10 of TPS 7 in a subsequent Scheme Amendment.
- Traffic management resulting from each stage of the Structure Plan's implementation (eg. closure of Estuary Drive and access arrangements for heavy vehicles).
- Future planning and provision of railway infrastructure and services, both freight and passenger, within and around the Draft Structure Plan area.

Noise Emissions

When assessing a planning proposal for a proposed industrial estate, the EPA expects that the proponent will demonstrate that cumulative noise emissions from notional industries within the proposed estate should meet the assigned levels. The EPA expects the source sound power levels will be set at reasonable and realistic levels for the type of industry envisaged, and that the proposal will provide for realistic buffers, in order that the industries will not be unreasonably constrained, nor the buffers compromised. (Reference Draft Guidance for the Assessment of Environmental Factors: Environmental Noise, Environmental Protection Authority, Western Australia, 2007, (p.6))

When a proponent proposes an upgrade to an existing facility that does not comply with the assigned levels, the proponent must, as part of their EPA assessment:

- provide and commit to a Noise Improvement Plan, detailing measures that will be taken, and timelines for completion, to ensure that the existing noise emissions will be brought into compliance; and
- provide a detailed assessment demonstrating that the proposed new plant to be installed will, by itself emit noise below the assigned levels, such that the overall plant noise emission will eventually comply.

Where the proponent believes that the existing or upgraded plant – or their proposal for a new facility – cannot reasonable and practicably comply with the assigned levels, then the proponent must apply to the Minister for the Environment under noise regulation 17. This application must be made at the time of the commencement of the EPA assessment. (Reference Draft Guidance for the Assessment of Environmental Factors: Environmental Noise, Environmental Protection Authority, Western Australia, 2007, (p.7)) As current levels of noise emissions quantified by the BPA (Reference: Cumulative Noise Model of Bunbury Port for Bunbury Port Authority, SVT Engineering Consultants, 2006) presently exceed the Regulations, it is recommended that application be made under regulation 17 as part of the referral process to the EPA.

“Figure 13 –Future Night Time Port Operating Conditions” of the Draft Structure Plan demonstrates the projected noise levels in calm wind conditions without temperature inversion. Of the impacts that are mapped for future uses within the Inner Port, it is noted that the Structure Plan indicates land zoned for “Containers” and “Containers (Limited Operations)”; however, there has not been any noise modelling done for this type of activity.

The modelled worst-case night-time port operating conditions is stated to occur for calm meteorological conditions with no temperature inversions. As the seasonality of climatic conditions varies significantly throughout the year, with respect to wind direction and intensity and the likelihood of temperature inversions, it would be considered prudent to ensure that the actual worst-case conditions more clearly incorporated these factors (eg. for winter and spring).

“Figure 23 – ‘Indicative Assigned Noise Levels External to the Port’ of the Draft Structure Plan report, shows the future projected noise levels from all influencing factors internal and external to the port, taking into account primary distributor roads, commercial centres and shopping zones. Reference Preliminary Noise Modelling for Bunbury Port Expansion, SVT Engineering Consultants, 2007) The compiling of Figure 23 does not apply the influencing factors of other land uses to produce indicative assigned noise levels for noise sensitive premises in a transparent manner. The method of applying external influencing factors is stipulated in regulation 8 and Schedule 3 of the Environmental Protection (Noise) Regulations 1997.

The Draft Structure Plan report does not indicate which external factors fall into the 100 metre and 450 metre radii that the loading levels are calculated from. The report states that the indicative assigned LA10 level received in sensitive areas within 100 metres of Koombana Drive, the Australind Bypass and the Inner Harbour Structure Plan boundary would typically be in the order of 41dB(A). No justification for the 6dB loading applied to the LA10 has been provided with respect to traffic volumes and commercial land uses. A top range figure is also required to assess the actual impact to these areas to ensure that it does not exceed the maximum LA max for sensitive areas at any given time of day under regulation 8 [Table 1] of the Environmental Protection (Noise) Regulations 1997.

Table 1

Type of premises receiving noise	Time of day	Assigned level (dB)		
		LA 10	LA 1	LA max
Noise sensitive premises at locations within 15 metres of a building directly associated with a noise sensitive use	0700 to 1900 hours Monday to Saturday	45 influencing factor +	55 influencing factor +	65 influencing factor +
	0900 to 1900 hours Sunday and public holidays	40 influencing factor +	50 influencing factor +	65 influencing factor +
	1900 to 2200 hours all days	40 influencing factor +	50 influencing factor +	55 influencing factor +
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 influencing factor +	45 influencing factor +	55 influencing factor +
Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All hours	60	75	80
Commercial premises	All hours	60	75	80
Industrial and utility premises	All hours	65	80	90

In accordance with the Regulations, measured noise that contains annoying characteristics such as tonality, impulsiveness or modulation must be adjusted prior to determining compliance with the assigned noise levels. However, these adjustments have not yet been taken into account in the SVT Cumulative Noise Model, as stated (page 21) “observations made during site visits to the port suggest that the intrusive characteristics are likely to be evident at some receiving locations depending on the port operating conditions and prevailing weather conditions.”

This was borne out by night-time measurements made by the City in August 2001 at a residence in Austral Parade, where the operation of bulldozers on the woodchip pile was measured at 56dB(A) peaking at 62dB(A). This measurement was loaded by 10dB(A) because of the impulsive nature of the tracks clanking as the dozer reversed and an excess noise level of 29.7dB(A) was calculated over the assigned and adjusted level of 36.3dB(A). The Draft Structure Plan report states that its modelling does not take into account noise reduction measures (page 52); however, the modelling is validated by actual levels to within 3dB(A) for well defined operating conditions at distances up to one kilometre from the Port (SVT, p10). As acknowledged on page 49 of the Draft Structure Plan report, the noise monitoring to date “shows that under certain conditions the noise impacts on part of East Bunbury residential area requires management of port operations to achieve acceptable impacts particularly at night”.

The modelling for expansion of the Port so far shows that a small part of Glen Iris, and substantial parts of East Bunbury through to the CBD and Marlston Hill, will be subjected to night-time noise from the Port in excess of the 35dB(A) assigned level. The Draft Structure Plan asserts that the increase in noise will not be substantially above current levels predicted by SVT, which states (page 5) that the annual risk of probability of the assigned noise levels being exceeded as:

Location	Annual Probability of exceeding assigned levels (%)		
	Day	Evening	Night
Koombana Caravan Park	3	40	67
Austral Parade	8	37	67
Oliver Street	0	1	7
Venn Street	1	3	29
Pelican Point	0	0	2

Figure 23 indicates that a loading of 6dB(A) has been put onto the assigned noise levels based on being within 100m of a major road; however, the City’s traffic counts indicate that Koombana Drive, Australind Bypass and Sandridge Road are all secondary roads as defined in the Regulations and therefore subject to a 2dB(A) weighting. The volumes of traffic on Koombana Drive differs from that of Australind Bypass, and consideration of the expected increase in traffic count anticipated with the closure of Estuary Drive, will increase the traffic flow on Australind Bypass by an approximate 4000 additional vehicles per day. The distinction of Australind Bypass as a major road serves to indicate that Koombana Drive and Australind Bypass should be granted different weightings.

It is not known what the historical level of accepted nuisance noise threshold is for residents within the affected area, and whether the projected levels from the modelling are an increase on the current perceived level of nuisance noise. The term 'nuisance noise' is often referred to in impact assessment literature, but is not consistently defined or set with respect to its level and nature of sound pressure. The best technical advice is that nuisance noise is determined by cultural/sociological factors unique to a locality, and therefore requires site-specific research in order to determine the locally accepted level of tolerance for noise. The graphing of BPA records for noise complaints made over an average annual time period may provide a rough indication of a nuisance noise level for the affected residents living around the Port.

It is recommended that the noise level thresholds and associated controls for managing noise impacts offsite to sensitive areas must be defined in order to condition the structure plan sufficiently well to ensure that the maximum development potential under the structure plan does not exceed allowable levels through incremental development approvals.

Despite any established standard, it can be expected that given a typically lower threshold level for perceived levels of nuisance noise, that the outcomes of the Buffer Definition Study will also need to inform the City in establishing appropriate land use and development controls on land surrounding the Port affected by noise. For example, the limiting of further encroachment of sensitive land uses (eg. residential), establishment of a Special Control Area with appropriate development standards for noise attenuation and/or the inclusion of notification and memorials on land Titles to inform landowners.

These measures are expected to occur as part of a Scheme Review, as they are linked to a comprehensive response to zoning, residential densities and development controls. It is also recommended that measures include the designation of a Special Control Area for any defined buffer area to be shown on the GBRS. It is recommended that the BPA conduct the Buffer Definition Study with the participation of the City, DPI and the Department for Environment and Conservation (DEC). The Buffer Definition Study, and any critical outcomes, should then in the opinion of Development Services be a condition of final adoption and endorsement of the Structure Plan.

A Noise Management Plan is required to document the control of emissions by future land uses and specify the responsibilities of all relevant authorities for the monitoring of emissions and the method of measurement and enforcement. The plan should include mitigation measures for proposed land uses and methods of lowering noise emissions from existing/expanding uses within the Port. In particular, any uses that are currently exceeding the EPA standard.

Dust Emissions

An atmospheric dust model was developed by SKM to estimate the level of dust currently being emitted from the Port operations as well as future uses. Ongoing dust monitoring will be conducted from three locations near the Inner Harbour from Tapered Element Oscillating Membrane (TEOM) real time monitoring of PM10 dust concentrations, at existing installations that were used for a previous study in 2006.

Further clarification is required as to the current level of dust emissions, to be included in a Dust Management Plan in accordance with the National Environmental Protection Council (NEPC) standards for ambient air quality, that will document the control of emissions by future land uses and specify the responsibilities of all relevant authorities for the monitoring of emissions and the method of measurement and enforcement. The plan should include mitigation measures for proposed land uses and methods of lowering dust emissions from existing / expanding uses within the port. In particular, any uses that are currently exceeding the NEPC standard are required to demonstrate a future plan to bring emissions into compliance.

Hazardous Materials Storage & Transport

The Draft Structure Plan report provides a list of noxious and hazardous materials that future Port operations may include the storage and handling of, such as:

- large fuel depots including methanol, ethanol and petroleum storage;
- anhydrous ammonia transit storage;
- chlorine transit storage; and
- ammonium nitrate storage.

Yet this is not a complete list of potential noxious or hazardous materials that may be permitted within the Port (eg. other such materials may include lead and copper sulphide storage and transportation). The Draft Structure Plan report also ambiguously includes “any number of goods currently handled by the Fremantle Port” (p.55) within the list of future operations of the Inner Harbour. The inherent problem with this approach is twofold:

- a) the types of goods handled by the Fremantle Port changes over time; and
- b) Bunbury’s Port is operated fundamentally different and located within uniquely different physical conditions to that of Fremantle.

Therefore, linking the Draft Structure Plan’s permissibility to another ports operations/approvals may not be adequate for the transparent consideration of potential land use impacts and risks/hazards. Rather, it is suggested that a more comprehensive list of types or classes of materials that satisfy the Port’s own licensing conditions under the EPA should be provided as a schedule to the Draft Structure Plan.

Whilst the Draft Structure Plan applies the principles of the WAPC’s SPP4.1, and the EPA’s Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986) Separation Distances between Industrial and Sensitive Land Uses No. 3, June 2005; (Reference Specifically Appendix 1: Separation Distances between Industrial land Sensitive Land Uses of the Draft Guidance Statement No 3) it does not adequately address the potential risks and hazards generated by the storage and handling of hazardous and noxious materials. Indeed, the Draft Structure Plan report itself concedes on page 55 that: Given the population growth around the Inner and Outer Harbours, the Port Authority should update the cumulative individual and societal risk models as part of the ongoing management of risk.

The “Land Use Impacts” section (p.44) of the Draft Structure Plan report provides a justification as to the relative impact zones applied and how they relate to existing and proposed uses and their associated risks/impacts. These relative impact zones have been described and mapped in the report for each of the identified hazards in Figures 14-16 of the draft Structure Plan report. However, whilst Tables 1, 2 and 3, may infer how an indicative use may fall within a relative impact class, it is not entirely clear as to what factors and corresponding thresholds are used.

Further risk evaluation is required for noxious and hazardous materials to be incorporated in the cumulative impacts assessment, including for gases, odours and chemical spills. Whilst the draft Structure Plan does seek to limit the extent of the noxious and hazardous industry use classes (ie. processing), the storage or stockpiling, handling and transportation of hazardous and noxious materials may occupy an extensive area under the Draft Structure Plan. It is therefore, recommended that a Risk Management Plan be prepared to guide specific noxious and hazardous materials storage and transportation.

Contaminated Sites

The Inner Harbour area encompasses a number of suspected contaminated sites that include:

- Switching station adjacent to Eelup Roundabout (PCBs);
- Bunbury Power Station (asbestos, municipal refuse, fly ash); and
- Fly ash ponds (heavy metals).

There is a statutory obligation upon all landowners / polluters under the State’s Contaminated Sites Act 2003 to report suspected and known contaminated sites to the DEC by June/July 2007.

It is understood that the DEC will advise landowners / polluters of what level of remediation is required in due course. This matter may have implications in relation to excavation works undertaken for river channel realignment, birth expansions, dewatering, changes to ground level and stormwater management, etcetera.

European Heritage

The Leschenault Homestead was placed on an Interim Entry to the State Register of Heritage Places in 1992 and is also included on the Register of the National Estate, National Trust and Municipal Inventory. The Leschenault Homestead is recommended for relocation in the Draft Structure Plan as the best course of action for retaining the buildings within the context of the river and public access/exposure. The Leschenault Homestead Planning Committee Final Report (December, 2007) recommends that the Homestead be relocated to a site on the north side of the Australind Bypass at Glen Iris. Whilst future use(s) is yet to be determined, the ownership responsibilities for the Homestead will remain with the BPA while it is located on Port land.

Indigenous Heritage

Several registered Aboriginal Heritage Sites protected under the Aboriginal Heritage Act 1972 are located within the Draft Structure Plan boundary. Aboriginal Heritage Sites centred around the Preston River (No. 572, 573, 574, 576, 10679, 10680, 10681 and 17573) were identified on the Aboriginal Sites Register, as indicated by the Western Australian Department of Indigenous Affairs' (DIA) own Aboriginal Heritage Inquiry System (www.dia.wa.gov.au accessed 22 January, 2008).

The Draft Structure Plan must ensure that it efficaciously discharges all statutory responsibilities prescribed under all relevant legislation. Accordingly, the formulation of the Structure Plan must identify and reflect the existence of any substantiated indigenous cultural heritage values in accordance with the Act.

As the owner of the land the BPA has an obligation under s.17 of the Aboriginal Heritage Act to ensure that development does not damage or disturb a site(s) or object(s) of significance to Indigenous people. The proposed draft Structure Plan needs to recognise that appropriate ethnographic and archaeological surveys have been or will be conducted in the early stages of development design, or, in the least preferred case prior to ground disturbing activity. Any confirmed Aboriginal Heritage Site thus must not be disturbed without the consent of the Minister for Indigenous Affairs.

The BPA undertakes within the Draft Structure Plan report (p.40) to ensure that "Before commencing any activity which may impact on an Aboriginal Heritage Site, the Port shall liaise with the relevant Indigenous stakeholders to seek their input on whether or not an application should be made to the Minister for Aboriginal Affairs.

As several registered Aboriginal Heritage Sites are situated within the Draft Structure Plan area, it is recommended that the BPA liaise with the DIA in conjunction with other relevant Indigenous stakeholders to determine its statutory requirements in this regard. Referral of the Draft Structure Plan to the DIA is also recommended as part of the public advertising process.

Referral and Assessment

In summary, as the Draft Structure Plan may be deemed a 'Strategic Proposal' by the EPA, given the issues raised in this report, it is recommended that the Draft Structure Plan be referred to the EPA for its assessment under Section 37B of the Environmental Protection Act 1986. Referral of the Draft Structure Plan to the Department of Health for its informal advice on the proposal is also recommended with respect to contributing to the terms of reference any potential assessment process (for further information refer to the Health Impact Assessment in WA: Discussion Paper, 2007).

Legislative and Council Policy Compliance

The Draft Structure Plan report states on page 46, paragraph two that:

"Table 3 provides a guide to applying uses that re 'non-port works' and non-port facility' uses as shown in Figure 20 (Structure Plan). It should be noted that whilst the use classes listed are taken from the TPS7 Zoning Table where they are cross-referenced to the 'Port Industry' zone, unlike a zoning scheme, the Structure Plan is non-statutory and should be used by the City of Bunbury and others as a guide to decision making."

The last part of this statement is not entirely accurate and should be corrected. A structure plan is adopted under a gazetted Scheme as its head of power, which itself is gazetted under the Planning and Development Act 2005. Whilst the Draft Structure Plan itself will not be an independent gazetted scheme, it does have the due weight of law, as it both:

- confers rights upon landowners; and
- responsibilities upon public authorities in the assessment of applications for the subdivision, use and development of land.

How effective any structure plan is as both a policy tool for guiding land use planning outcomes and as a statutory planning (legal) instrument for granting planning approval is dependant upon the veracity and efficaciousness of the structure plan itself.

Delegation of Authority

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

Relevant Precedents

The Fremantle Port Authority prepared a Fremantle Inner Harbour Buffer Definition Study (2002), which was endorsed by the WAPC and the DEC. The affected local authorities, City of Fremantle and Town of East Fremantle have both included the Buffer Zones and implemented policies for their respective Local Planning Schemes. The main outcomes of the Fremantle Inner Harbour Buffer Definition Study included:

- excluding a number of 'non residential sensitive uses' (area closest to the port);
- guidelines on residential density and built form;
- notification and memorials on title; and
- referral of development, subdivision and rezoning proposals to the Fremantle Port Authority for comment.

It is suggested in the Draft Structure Plan report that the City of Bunbury, the BPA and the DPI investigate a similar approach to handling the requirements of SPP4.1.

It should be noted that the Fremantle Port Inner Harbour handles container trade, break bulk cargo, livestock exports and motor vehicle imports, cruise ships and naval vessels. Whereas, the Bunbury Inner Port is a primary industries port, which handles coal, woodchips, mineral sands, bulk storage and alumina. Consequently, the terms of reference for Bunbury's Port Buffer Definition Study should include consideration of, but not be limited to the following:

- noise;
- vibration;
- dust;
- odour;
- light; and
- risks and hazards.

Options

Option 1

Per the recommendation printed in this report.

Option 2

Council notes the draft "Bunbury Port Inner Harbour Structure Plan" but does not initiate public advertising of the Draft Structure Plan in accordance with clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7.

Conclusion

This report is presented to Council to seek endorsement of the recommendation to initiate the public advertising of the Draft Structure Plan, for a period of 42 days, to enable adequate time for the community and stakeholders to provide comment on the Draft Structure Plan.

Other approvals expected to be required by the BPA in order to implement the Draft Structure Plan may include, but not limited to, the following matters:

1. Port Buffer Definition Study required by WAPC (in accordance with SPP4.1) to define both inner and outer buffer areas for all identified impacts, including: noise; vibration; dust; odour; light; and risks and hazards. Approval required under Environmental Protection Act 1986 for diversion of Preston River channel: Acid sulphate soil management of channel excavation and dewatering; effects on estuarine and marine habitat areas and associated communities, eg. bird species within the Japanese and Australian Migratory Birds Agreement (JAMBA) and Chinese and Australian Migratory Birds Agreement (CAMBA) sites; effects on hydrology – deposition of sediments into Leschenault Inlet.

2. Approval required under the Heritage of Western Australia Act 1990 for relocation of Leschenault Homestead. Approval required under Aboriginal Heritage Act 1972 for potential impacts on Indigenous cultural heritage values: Ministerial consent s.18 of Act in order to disturb Registered Aboriginal Heritage Sites; Ethnographic & Archaeological Survey required to determine presence of un-registered sites, which are similarly protected under Act.
3. Approval required under Environmental Protection Act 1986 for changes to natural ground level: 1 in 500 year flood mitigation.
4. Approval required under Environmental Protection Act 1986 for dredging of harbour: dredging and blasting impacts on marine habitat (eg. approx 80 dolphins that live in Koombana Bay); liaison with Dolphin Discovery centre required to manage impacts; measures required to guide dolphins to safer areas during the dredging period.
5. Approvals under Commonwealth Environment Protection and Biodiversity Conservation Act 1999 may also be required. Approval required under Environmental Protection Act 1986 for clearing of vegetation and filling of EPP wetlands.

As a consequence of any resolution to publicly advertise the Draft Structure Plan in accordance with clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7 (TPS7), it is recommended that this apparent 'Strategic Proposal' be referred to the Environmental Protection Authority (EPA) for its assessment under Section 37B of the Environmental Protection Act 1986.

Recommendation

Council, pursuant to the Planning and Development Act 2005 and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7, hereby resolves to:

1. Publicly advertise the proposed Draft "Bunbury Port Inner Harbour Structure Plan" for a period of 42 days.
2. Following public advertising of the proposed draft "Bunbury Port Inner Harbour Structure Plan", the proposal and any public submissions lodged with the City during the advertising period are to be returned to Council for further consideration.

Outcome of the Council Committee Meeting - 11 March 2008

Mayor David Smith disclosed an impartiality interest as he is a director of the Bunbury Port Authority. He elected to leave the meeting at 9.51pm for the duration of discussion and the vote on this matter.

Cr Jones was requested to preside at the meeting in the Presiding Member's absence as the Deputy Presiding Member was not in attendance at the meeting.

The recommendation was moved Cr Dillon, seconded Cr Slater. During discussion, the following amendments were suggested and the mover/seconded agreed to include them in their motion:

- The public submission period in point 1. be extended to 60 days due to the Easter break.
- In response to concerns about the cost of advertising the following additional point 3. be added: *"3. A Public Communications Strategy be developed between the City of Bunbury and the Bunbury Port Authority."*

The motion (now amended) was put to the vote and carried 9 votes "for" to nil votes "against" to become the Committee's recommendation on this issue.

Committee Recommendation

Council, pursuant to the Planning and Development Act 2005 and clause 5.9.13 of the City of Bunbury Town Planning Scheme No. 7, hereby resolves to:

- 1. Publicly advertise the proposed Draft "Bunbury Port Inner Harbour Structure Plan" for a period of 60 days.*
- 2. Following public advertising of the proposed draft "Bunbury Port Inner Harbour Structure Plan", the proposal and any public submissions lodged with the City during the advertising period are to be returned to Council for further consideration.*
- 3. A Public Communications Strategy be developed between the City of Bunbury and the Bunbury Port Authority.*

Mayor David Smith returned to the meeting at 9.20pm.

11.9 FINANCIAL STATEMENTS - FEBRUARY 2008

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

Summary/Background

Financial Statements for the period ending 29 February 2008 have been circulated to members under separate cover. The statements include the following details:

Income Statement
Balance Sheet
Statement of Changes in Equity
Statement of Financial Activity
Statement of General Purpose Income
Statement of Rating Information
Note 1 - Significant Accounting Policies
Note 2 - Description of Programmes
Note 3 - Net Current Assets
Note 4 - Receivables
Note 5 - Other Financial Assets
Note 6 - Payables
Note 7 - Provisions
Note 8 - Trust Funds
Note 9 - Explanations - Significant Variations to Income Statement
Note 10 - Capital Expenditure
Note 11 - Key Operating Expenditure and Income (budget exceeding \$20,000)
Note 12 - Loan Funds
Note 13 - Reserve Funds
Note 14 - Bunbury Timber Jetty
Note 15 - Investment Funds

Recommendation

The Financial Statements for the period ending 29 February 2008, be received.

Outcome of the Council Committee Meeting - 11 March 2008

The recommendation (as printed) was moved Cr Jones, seconded Cr Leigh. The motion was put to the vote and carried 9 votes "for" to nil votes "against" to become the Committee's recommendation on this issue.

Committee Recommendation

The Financial Statements for the period ending 29 February 2008, be received.

12. MOTIONS ON NOTICE

Nil.

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

Some general discussion took place about the following:

- Plans for a Civic Reception for boxer, Danny Green, have had to be cancelled as his trainer has arranged for him to attend training interstate.
- Councillor Dillon was thanked for his efforts in organising the community concert at the Graham Bricknell Music Shell over the weekend.
- Pouring of the concrete slab for the new library building.

14. ITEMS TO BE NOTED OR ENDORSED

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

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

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

Recommendation

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

1. Title: Minutes - Airport Advisory Committee (14/02/2008)
Author: Nigel Archibald, Senior Engineering Technical Officer
File: F00080
2. Title: Accounts for Payment - February 2008
Author: David Ransom, City Accountant
File: A00083

Outcome of the Council Committee Meeting - 11 March 2008

The recommendation (as printed) was moved Cr Jones, seconded Cr Dillon. The motion was to the vote and carried 10 votes "for" to nil votes "against", to become the Committee's recommendation on this issue.

Committee Recommendation

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

1. *Title: Minutes - Airport Advisory Committee (14/02/2008)*
Author: Nigel Archibald, Senior Engineering Technical Officer
File: F00080

2. *Title: Accounts for Payment - February 2008*
Author: David Ransom, City Accountant
File: A00083

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

There were no items recommended for endorsement.

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

Nil.

16. CLOSE OF MEETING

The Presiding Member declared the meeting closed at 9.25pm.

11 March 2008
Minutes - Council Committee Meeting

CONFIRMED this day 1 April 2008, to be a true and correct record of proceedings of the Council (Standing) Committee Meeting held 11 March 2008.

MAYOR D SMITH
PRESIDING MEMBER