



22 JULY 2008

CONTENTS

Council Committee Meeting Minutes

| <u>Item No</u> | <u>Subject</u> | <u>Page</u> |
|-----------------------|---|--------------------|
| 1. | DECLARATION OF OPENING BY THE PRESIDING MEMBER | 1 |
| 2. | RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE | 1 |
| 3. | RESPONSES TO 'PUBLIC QUESTIONS' FROM THE PREVIOUS COUNCIL COMMITTEE MEETING (WHERE THEY COULD NOT BE ANSWERED AT THAT MEETING)..... | 2 |
| 4. | PUBLIC QUESTION TIME..... | 2 |
| 5. | QUESTIONS ON NOTICE FROM MEMBERS OF THE COMMITTEE (WITHOUT DISCUSSION)..... | 2 |
| 6. | CONFIRMATION OF PREVIOUS MINUTES..... | 3 |
| 7. | DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995 | 3 |
| 8. | ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)..... | 3 |
| 9. | CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS | 4 |
| 9.1 | APPOINTMENT OF NEWLY ELECTED MEMBERS TO THE COUNCIL (STANDING) COMMITTEE..... | 4 |

| <u><i>Item No</i></u> | <u><i>Subject</i></u> | <u><i>Page</i></u> |
|-----------------------|--|--------------------|
| 9.2 | REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR SHANE ROONEY..... | 6 |
| 9.3 | BUNBURY WATERFRONT - SPECIAL MEETING OF ELECTORS HELD 19 JUNE 2008..... | 7 |
| 10. | RECEPTION OF FORMAL PETITIONS AND MEMORIALS..... | 14 |
| 11. | RECEPTION OF REPORTS AND RECOMMENDATIONS FROM OFFICERS & ADVISORY COMMITTEES..... | 15 |
| 11.1 | APPOINTMENT OF MEMBERS TO FILL VACANCIES ON COUNCIL ADVISORY COMMITTEES AND EXTERNALLY MANAGED COMMITTEES OR PROFESSIONAL ORGANISATIONS..... | 15 |
| 11.2 | PROPOSED HAY PARK ATHLETICS TRACK..... | 21 |
| 11.3 | BUNBURY REGIONAL THEATRE INC NOMINATIONS FOR MEMBERSHIP..... | 29 |
| 11.4 | PROPOSED APPOINTMENT TO CITY OF BUNBURY ART COLLECTION MANAGEMENT COMMITTEE..... | 33 |
| 11.5 | COUNCIL SUPPORT FOR THE PROPOSED DEDICATION OF LOT 100 ROBERTSON DRIVE, BUNBURY AS A "ROAD"..... | 37 |
| 11.6 | BIG SWAMP WILDLIFE PARK STEERING COMMITTEE – PROPOSED APPOINTMENTS..... | 40 |
| 11.7 | TOWN PLANNING SCHEME AMENDMENT – PORTION OF LOT 14 (NO. 7) GARVEY PLACE, BUNBURY – REZONE TO MIXED BUSINESS..... | 43 |
| 12. | MOTIONS ON NOTICE..... | 49 |
| 13. | "URGENT" BUSINESS WITH THE APPROVAL OF THE MAJORITY OF MEMBERS PRESENT AS PERMITTED UNDER STANDING ORDER 5.1.13..... | 49 |
| 14. | ITEMS TO BE NOTED OR ENDORSED..... | 49 |
| 14.1 | ITEMS TO BE NOTED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING..... | 49 |
| 14.2 | ITEMS TO BE ENDORSED (NO DISCUSSION) AT THE COUNCIL COMMITTEE MEETING..... | 51 |
| 15. | CONFIDENTIAL BUSINESS AS STIPULATED UNDER SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995..... | 51 |
| 16. | CLOSE OF MEETING..... | 51 |

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 |
| BRVCIG | Bunbury Regional Visitor Centre Investigation Group |
| BSSC | Big Swamp Steering Committee |
| BWEA | Bunbury Wellington Economic Alliance |
| CALM | Department of Conservation and Land Management |
| CBD | Central Business District |
| CCAFF | Community Cultural and Arts Facilities Fund |
| CERM | Centre of Environmental and Recreation Management |
| CPI | Consumer Price Index |
| CSRFF | Community Sport and Recreation Facilities Fund |
| DADAAWA | Disability in the Arts Disadvantage in the Arts Australia, Western Australia |
| DAP | Detailed Area Plan (required by WA Planning Commission) |
| DCU | Development Coordinating Unit |
| DEC | Department of Environment and Conservation (formerly CALM) |
| DEWCP | Department for Environment, Water and Catchment Protection |
| DLI | Department of Land Information |
| DoE | Department of Environment |
| DOLA | Department of Land Administration |
| DoPI | Department of Primary Industry |
| DoW | Department of Water |
| DPI | Department for Planning and Infrastructure |
| DSR | Department of Sport and Recreation |
| DUP | Dual-use Path |
| ECT | Enforcement Computer Technology |
| EDAC | Economic Development Advisory Committee |
| EDWA | Education Department of Western Australia |
| EIA | Environmental Impact Assessment |
| EPA | Environmental Protection Authority |
| ERMP | Environmental Review and Management Program |
| ESL | Emergency Services Levy |
| FESA | Fire and Emergency Services Authority |
| FFL | Finished Floor Level |

| Term | Explanation |
|-----------------|---|
| GBPG | Greater Bunbury Progress Group |
| GBRP | Greater Bunbury Resource Plan report |
| GBRS | Greater Bunbury Region Scheme |
| GL | Gigalitres |
| GLA | Gross Leasable Area |
| 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 |
| 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 |
| SAT | State Administrative Tribunal |
| SBCC | South Bunbury Cricket Club Inc. |
| SCADA | Supervisory Control and Data Acquisition |
| SOS | Save Our Shore's Group |
| SWAS | South West Academy of Sport |
| SGDC | Sportsgrounds Development Committee |
| SW | South West |
| SWACC | South Western Area Consultative Committee |

| Term | Explanation |
|-------------|---|
| 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 |
| TEC's | Threatened Ecological Communities |
| TME | Thompson McRobert Edgeloe |
| TPS | Town Planning Scheme |
| TWPCG | Three Waters Project Control Group |
| 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

Minutes of an Ordinary Meeting of the Council (Standing) Committee held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 22 July 2008.

MINUTES

22 July 2008

NOTE: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the subsequent Council Meeting on 29 July 2008.

1. DECLARATION OF OPENING BY THE PRESIDING MEMBER

The Presiding Member, declared the meeting open at 6.03pm. His Worship the Mayor took this opportunity to welcome the two new Councillors Juliet Harrop and Derek Spencer to their first Committee Meeting.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

PRESENT

| Council Committee Members | |
|---|--------------------------------------|
| Presiding Member: | His Worship the Mayor - D Smith |
| Members: | Deputy Mayor - Councillor S Craddock |
| | Councillor J Harrop |
| | Councillor A Leigh |
| | Councillor B Kelly |
| | Councillor H Punch |
| | Councillor N Whittle |
| | Councillor R Slater |
| | Councillor W Major |
| | Councillor D Spencer |
| | Councillor J Jones |
| | Councillor M Steck (arrived 6.25pm) |
| 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 Life: | Mr D Marzano |
| Council Officers (Non-Voting): | |
| Manager Development Services | Mr G Fitzgerald |
| Administration Officer Corporate Services: | Ms F Wood |

PRESENT (Continued)

| Others (Non-Voting): | |
|-----------------------------|--------------|
| Members of the Public: | 33 (approx.) |
| Members of the Press: | 2 |

APOLOGIES:

| |
|--|
| Councillor S Rooney – Leave of Absence |
|--|

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

Nil

4. **PUBLIC QUESTION TIME**

Nil.

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

Nil.

6. CONFIRMATION OF PREVIOUS MINUTES

Cr Major moved, Cr Slater seconded the recommendation as printed in the meeting agenda. The motion was put to the vote and adopted to become the Committee's decision.

Committee Decision

The minutes of the Council (Standing) Committee Meeting held 17 June 2008, be confirmed as a true and accurate record.

CARRIED

11 Votes "For" / Nil Votes "Against"

7. DISCLOSURES OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1995

Nil.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9. CHIEF EXECUTIVE OFFICER REPORTS/DISCUSSION TOPICS

9.1 APPOINTMENT OF NEWLY ELECTED MEMBERS TO THE COUNCIL (STANDING) COMMITTEE

| | |
|-----------------------------|---|
| File Ref: | A00106 |
| Applicant/Proponent: | Internal Report |
| Author: | Greg Trevaskis, Chief Executive Officer |
| Executive: | Greg Trevaskis, Chief Executive Officer |

Summary

Councillor's Juliet Harrop and Derek Spencer to be appointed to the Council (Standing) Committee.

Background

The Mayor and Councillors meet as a 'committee' every second Tuesday at 6.00pm in accordance with the Schedule of Meetings attached at Appendix 1. The schedule was adopted by Council at its meeting held 27 November 2007.

Members of the Council (Standing) Committee discuss reports submitted by local government officers and make recommendations to the subsequent meeting of the Council.

The committee has the following terms of reference:

- The activities of the committee and the conduct of its meetings are to abide by provisions set out in the Local Government Act 1995 and associated regulations; and the City's Standing Orders Local Law.
- The committee may reject, amend or replace recommendations submitted to it by the City's Executive or request additional details from applicants and the City's Executive necessary to ensure that the members of the subsequent Council Meeting (at which a decision on the subject is to be made) have sufficient information to make an informed decision.
- When rejecting an officer's recommendation or when making a Committee Recommendation to the Council, members of the Council (Standing) Committee are to ensure that the recommendation would not effectively cause the Council to act in a manner that contravenes State or local legislation and should ensure the recommendation complies with the Council's own policies, the City's Strategic Plan and Plan of Principal Activities.

Recommendation

Cr Juliet Harrop and Cr Derek Spencer be appointed as members of the Council (Standing) Committee.

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Major, seconded Cr Leigh and adopted *11 votes "for" to nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

Cr Juliet Harrop and Cr Derek Spencer be appointed as members of the Council (Standing) Committee.

ABSOLUTE MAJORITY VOTE REACHED.

9.2 REQUEST FOR LEAVE OF ABSENCE - COUNCILLOR SHANE ROONEY

| | |
|-----------------------------|---|
| File Ref: | A00215 |
| Applicant/Proponent: | Councillor Shane Rooney |
| Author: | Greg Trevaskis, Chief Executive Officer |
| Executive: | Greg Trevaskis, Chief Executive Officer |

Summary/Background

Councillor Rooney requests leave of absence from all Council-related business from 15 July to 29 August 2008 (inclusive).

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

Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Shane Rooney is granted leave of absence from all Council-related business from 15 July to 29 August 2008 (inclusive).

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Slater, seconded Cr Jones and adopted *11 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Shane Rooney is granted leave of absence from all Council-related business from 15 July to 29 August 2008 (inclusive).

9.3 BUNBURY WATERFRONT - SPECIAL MEETING OF ELECTORS HELD 19 JUNE 2008

| | |
|-----------------------------|--|
| File Ref: | A03183 |
| Applicant/Proponent: | Internal Report |
| Author: | Gary Fitzgerald, Acting Executive Manager City Development |
| Executive: | Gary Fitzgerald, Acting Executive Manager City Development |

Summary

Pursuant to Sections 5.32 and 5.33 of the *Local Government Act 1995*, the Council is to consider recommendations made by electors that attended the Special Electors Meeting held on 19 July 2008. A copy of the minutes is **attached** at Appendix 1.

The Special Electors Meeting had been requested by electors under Section 5.28 of the *Local Government Act 1995*, for the purpose of discussing:

- *“Extension of the public submission period for the Eastside Precinct Structure Plan for a further 60 days because of the complex nature of the proposal and the need to obtain appropriate information to enable worthwhile submissions to be made.*
- *Suitable zoning options to meet the needs of the community.*
- *The City of Bunbury’s obligation to electors to totally uphold the voice of the electors through City Vision.”*

Background

The minutes of the Special Electors Meeting held 19 June 2008, contained three recommendations for consideration by the Council.

At the Council Meeting held on 24 June 2008, Council considered Item 3 and decided:

“Council Decision 121/08

Council urgently erect a large sign on the Bunbury Waterfront Project informing the public of the land included in the structure plan and the sign to be located on the South Side of Koombana Drive.”

The electors' recommendations for Items 1 and 2 are printed in the table overleaf. The table shows:

1. each electors' recommendation; and either
2. a comment by the relevant Council officer, or
3. a City Vision Comment.

BREAKDOWN OF ELECTORS RECOMMENDATIONS

| Electors Recommendation No. 1 | |
|--|--|
| <p><i>The land involved in the proposed Eastside Precinct Structure Plan being Lot 707 Blair Street, Lot 681 Koombana Drive and Lot 723 Koombana Driver currently zoned as “Parks and Recreation Reserve” remain as “Parks and Recreation Reserve” for development within the Parks and Recreation Reserve guidelines (this area includes the land and water within the inlet),</i></p> | |
| City Vision Comments | Comment |
| <p>Page 10 and 11 of the City Vision Action Plan (adopted December 2007) provides detail and information on the desired outcomes for the “City Entry Precinct” portion of the CBD and Inlet. The ‘Priority Issues / Proposal’ recommendations contained in the Action Plan do not presume what the status is of the areas land use designation (i.e. reserved or rezoned).</p> <p>The preparation of City Vision involved a process of extensive community engagement as its foundation for research analysis and formulation of recommendations.</p> <p>Recommendation CBD30 relating to the Inlet End –“ The Plug to Bunbury Yacht Club states:</p> <p><i>“That major and extensive built development is not supported on the inlet foreshore excepting a project are at the western end of the inlet that provides an attraction or magnet to the water. The type of development consistent with the community values for this area is a restaurant, tearooms and /or tavern combined with boat hire, facilities for barbeques, child/youth play areas and live entertainment facilities. This development should align closely with key pedestrian and visual connector with the City Centre, being Symmons Street. Other development opportunities maybe considered following the public release and community feedback on the Bunbury Waterfront Project prepared by Landcorp.”</i></p> <p>Although not forming part of a formal recommendation the City Vision Strategy acknowledges that through the consultative process the issue of taller buildings (unspecified height) was discussed , in limited special situations eg Bunbury Waterfront, (page 52, City Vision Strategy). States:</p> <p><i>The TME plan has recommended a five story maximum for mixed use, commercial and tourist sites consistent with the picture book statement. However, TME acknowledges community support for taller buildings (unspecified height) in limited and special situations. Any such buildings are recommended as being light and tall rather than wide and bulky and designed to optimise views between structures.</i></p> <p>It should be noted that the City Vision Strategy is a non statutory policy framework that is used to guide desired land use and infrastructure planning within the City. As such it is open to Council to consider variations to the document.</p> <p>In proceeding with any proposal, Council may wish (but is not statutorily required) to reconcile any apparent variances between a proposed draft structure plan and the current adopted version of City Vision document.</p> | <p>Council at its meeting of the 18 March 2008 initiated a Scheme Amendment to rezone Lot 707 Blair Street, Lot 681 Koombana Drive and Lot 723 Koombana Drive from Parks and Recreation Reserve “to Special Use Zone.</p> <p>The Recommendations coming from the Special Electors meeting are in effect requesting Council to consider a refusal of the initiated Scheme Amendment.</p> <p>In final consideration of any proposed changes to the current zoning of the land it would seem appropriate to wait until the finalisation of the formal Scheme Amendment advertising process. At this stage all comments can be formally considered in deciding whether to recommend to the Minister for Planning to either support or refuse the scheme amendment.</p> |

Electors Recommendation No. 2

Portion of Lot 723 Koombana Drive and parcels of Unallocated Crown Land be rezoned from "Railway Reserve" to "Parks and Recreation". These lots are to be kept for the purpose of development that falls into the category of "Parks and Recreation" using information and feedback that is provided from the public submissions and guided by the City Vision Strategy.

Officer's Comment(s)

The implications of the Premier's announcement of the Perth to Bunbury high speed railway project has been discussed between representatives of the DPI, PTA, Landcorp and the City.

At a meeting held between the stakeholders it was agreed that the PTA (in conjunction with Landcorp) would confer with the relevant Minister to determine the appropriate course of action to resolve the potential conflicts/interrelationships between the two projects.

It was also generally agreed that should the Perth to Bunbury high speed railway project proceed, that it may require a revision of the proposed draft structure plan.

The planning processes and statutory procedures for resolving the matter is at the discretion of the relevant State government agencies - as both projects are under the project management of the State government, and the local government does not have the delegated power to consider the proposals on land reserved under the GBRS.

Formal direction on the statutory procedure for considering/adopting/endorsing the Eastside Precinct proposal has been sought from DPI, but as yet no direction has been given.

In proceeding with the non-statutory aspects of the proposal (eg. designing), Council may wish to advocate for its participation in the preparation of a revised proposal (in accordance with CBD28 to CBD34 recommendations), subject to the agreement and terms of reference set by the responsible State government authority.

Council at its meeting of the 18 March 2008 initiated a scheme amendment to rezone Portion of Lot 723 Koombana Drive and parcels of Unallocated Crown Land from "Railway Reserve" to Special Use Zone

The recommendations coming from the special electors meeting are in effect requesting Council to consider a refusal of the initiated scheme amendment.

In final consideration of any proposed changes to the current zoning of the land it would seem appropriate to wait until the finalisation of the formal scheme amendment advertising process. At this stage all comments can be formally considered in deciding whether to recommend to the Minister for Planning to either support or refuse the scheme amendment.

Community Consultation

Notices inviting members of the public to attend the Special Council Meeting were published in the *South Western Times* on Thursday, 5 June 2008 and in the *Bunbury Mail* on Wednesday, 11 & 18 June 2008. Notices were also placed on notice boards at the Council Administration Centre and City Libraries.

Following the meeting, a copy of the minutes was provided to:

- All councillors.
- Each elector that registered their attendance at the meeting (posted 1 July 2008).
- City's website - for public information.

Councillor/Officer Consultation

The CEO and Officers in the City Development Division have considered the recommendations made by electors and have provided comments and (where applicable) an alternative recommendation.

Legislative Compliance

The City of Bunbury has complied with all provisions for calling and conducting a Special Meeting of Electors as contained in Sections 5.26 to 5.33 of the *Local Government Act 1995*. This section of the Act also outlines the procedure for dealing with decisions made by electors at these meetings.

Options

Option 1

As per the recommendation as listed in this report.

Option 2

Council accept the Recommendations resulting from the Special Electors meeting held on 19 June 2008, and, in that such a determination would be contrary to Council's prior resolution to initiate the Scheme Amendment, to immediately seek legal advice as to the legitimacy or otherwise of reversing the prior decision to initiate the Scheme Amendment, and that Development Services report back to Council on the matter after receipt of such advice on the next possible meeting.

Conclusion

Council at its meeting of the 18 March 2008 initiated a Scheme Amendment to rezone Portion of Lot 723 Koombana Drive and parcels of Unallocated Crown Land from "Railway Reserve" to Special Use Zone and to rezone Lot 707 Blair Street, Lot 681 Koombana Drive

and Lot 723 Koombana Drive from Parks and Recreation Reserve " to Special Use Zone". At the same meeting it was also resolved to advertise the Bunbury Waterfront Eastside Precinct Structure Plan. The Structure Plan is currently being advertised. The Scheme Amendment although it has been formally initiated by Council has not yet been publicly advertised for the following reasons

1. Council's resolution required that amendments to the Scheme Amendment documentation were required to be made by the proponent prior to the scheme amendment being advertised. To date the required amendments have not been received.
2. Development Services has sought clarification from the DPI in regards to the legalities/ procedures associated with the Town Planning Regulations relating to consent to advertise a Scheme Amendment. To date the City has not received any advice back regarding this matter.

Based on the information available at this stage, in that Council has initiated a Scheme Amendment under the provisions of the Town Planning Development Act, Development Services is of the opinion that it would be premature to consider any further recommendations prior to the finalisation of the scheme amendment advertising process.

It would, in DS opinion be more appropriate for Council to continue with the initiated Scheme Amendment process and treat the recommendations made at the Special Electors meeting as submissions to be considered along with all other submissions at the end of the formal advertising process.

If however, Council was inclined to explore the legalities of what in effect might be considered to be a rescission of a previous decision then it would be Development Services recommendation that legal advice be sought from Council's solicitors regarding the legitimacy of such action.

Recommendation

In consideration of recommendations made by City of Bunbury electors at the Special Meeting of Electors held 19 June 2008 Council resolves as follows:

1. Council note the comments and recommendations put forward at the Special Electors Meeting of the 19 June 2008.
2. To take no further action at this stage in regards to recommendations 1 and 2 at the Special Electors Meeting 19 June 2008, but to consider the recommendations as submissions to be formally considered when the matter is subsequently presented to Council for determination after the formal advertising process.
3. Advise all parties as noted on the list of attendees at the Special Meeting of Electors held on 19 June 2008 of Council's determination.

Outcome of the Council Committee Meeting – 22 July 2008

Cr Slater moved, Cr Major seconded the recommendation as printed in the agenda.

Cr Steck arrived at Council Chambers at 6.25pm.

Mrs Karen Steele, Mrs Judy Johnston and Mrs Judy Ware addressed Council raising views and concerns on the scale of the proposed development, lack of community consultation and desire for more open space to be retained at the location. Some points raised were:

- In the recommendation, point 2 outlines that the recommendations made at the Special Electors meeting would be considered as submission. Would these be considered as 300 submissions as that is how many people approximately voted on the recommendations on the evening.
- The group is not against developing the area, but would like to see a more appropriate development on the land to include attractions for the community such as playgrounds and would like to see a development that is decided in conjunction with the residents.

In response , the following was advised:

- The Mayor reassured the speakers that when Council formally considers the development, Councillors would take into consideration the high turn out at the Special Electors Meeting held 19 June 2008.
- In order for the proposal to be able to be advertised for public comments/submissions, the council is required to initiate the rezoning of the land. This is the formal statutory process.
- No decisions on the project are being made immediately. An example of this is it would be presented back to Council as late as October once the submission received following the closing period, are looked at in depth.
- SOS were encouraged to provide in their submission, details of what they would like to see developed on the land.

Mr Dennis Wagstaff also addressed Council stating that he is not against development of the area and is looking forward to seeing Bunbury progress to the next Stage but would like see a more appropriate proposal made in consultation with residents. He feels that Bunbury requires more tourist attractions and a development that is created by the residents and Council would attract visitors to the area.

During discussion, Cr Steck raised her concern in relation to the new signage erected following Council decision 121/08, as she was under the impression that it would be erected quicker than it was. For ease of reference, Council decision 121/08 is printed below:

Council Decision 121/08

“Council urgently erect a large sign on the Bunbury Waterfront Project informing the public of the land included in the structure plan and the sign to be located on the South Side of Koombana Drive.”

In response, the Manager Development Services advised that following Council's decision the project was sourced to a contractor to create the sign. As soon as the 2 metre by 3 metre sign was completed, it was erected. The time that was taken for the sign to be erected was due to the time taken to produce the sign.

Cr Harrop advised that LandCorp have recently announced they will be forming a public consultative committee and encouraged people to get involved.

The Mayor advised that Council is looking forward to receiving the submission from SOS and encouraged SOS to contact Council's Executive to view copies of the City Vision document and clarify any concerns that they hold.

The Mayor then put the recommendation to vote and adopted *Major 11 votes "for" to 1 vote "against"* to become the Committee's recommendation on this issue.

Cr Steck requested her vote "against" be recorded.

For ease of reference, the recommendation is printed below.

Committee Recommendation

In consideration of recommendations made by City of Bunbury electors at the Special Meeting of Electors held 19 June 2008 Council resolves as follows:

- 1. Council note the comments and recommendations put forward at the Special Electors Meeting of the 19 June 2008.*
- 2. To take no further action at this stage in regards to recommendations 1 and 2 at the Special Electors Meeting 19 June 2008, but to consider the recommendations as submissions to be formally considered when the matter is subsequently presented to Council for determination after the formal advertising process.*
- 3. Advise all parties as noted on the list of attendees at the Special Meeting of Electors held on 19 June 2008 of Council's determination.*

10. RECEPTION OF FORMAL PETITIONS AND MEMORIALS

Nil.

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

11.1 APPOINTMENT OF MEMBERS TO FILL VACANCIES ON COUNCIL ADVISORY COMMITTEES AND EXTERNALLY MANAGED COMMITTEES OR PROFESSIONAL ORGANISATIONS

| | |
|-----------------------------|---|
| File Ref: | A03065 |
| Applicant/Proponent: | Internal Report |
| Author: | Greg Trevaskis, Chief Executive Officer |
| Executive: | Greg Trevaskis, Chief Executive Officer |

Summary

Subsequent to the Extraordinary Local Government Election held on 28 June 2008, it is proposed to appoint newly elected members of the Council to fill vacancies on committees (both Council-managed and independent) that were created due to the resignation of former councillors Tom Dillon and Lorna Worthington.

It should be noted that due to an urgent need, vacancies on the Bunbury-Harvey Regional Council and the Land Rationalisation Project Control Group have already been filled. This was decided at the Council Meeting on 13 May 2008.

Existing members of the Council may also wish to take this opportunity to review their membership of Council's committees.

Background

Each councillor (including newly elected members) has been provided with a full copy of the City's Committee Book **under separate cover** and it is proposed that members will refer to this document throughout the meeting.

The Council Committee Book extract contains particulars of each Council Committee or external organisation that has Council representation.

Those committees or external organisations that currently have a vacancy due to the resignation of former Councillor's Dillon and Worthington, are listed below. The *Terms of Reference* for each committee can be found in the Committee Book (the relevant page number is listed below).

Council Committees

| Committee Name | Page No. | Existing Council Membership |
|------------------------------------|-----------------|---|
| Bunbury Airport Advisory Committee | 20 | Cr Wayne Major Cr Noel Whittle Cr _____ (vacancy) |

22 July 2008
Minutes - Council Committee Meeting

Council Committees (continued)

| Committee Name | Page No. | Existing Council Membership |
|---|-----------------|---|
| City Vision Implementation Committee | 33 | Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) Cr Ross Slater Cr Helen Punch Cr _____ (vacancy) |
| Community Access Committee | 68 | Cr Brendan Kelly Cr _____ (vacancy) |
| Greater Glen Iris / Moorlands Project Control Group | 38 | Mr David Smith (Mayor) Cr Alfred Leigh Cr _____ (vacancy) |
| Meeting Review Working Group | 44 | Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) Cr _____ (vacancy) |
| Recreation Project Control Group | 46 | Cr Michelle Steck Cr _____ (vacancy) |
| Retail Trading Implementation Committee | 48 | Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) Cr Shane Rooney Cr Helen Punch Cr _____ (vacancy) |
| Youth Advisory Council | 52 | Cr Shane Rooney Cr Alfred Leigh Cr _____ (vacancy) |

External Organisations

| Body Name | Page No. | Existing Council Representation |
|---|-----------------|---|
| South West Regional Road Group | 86 | Cr _____ (vacancy) Cr Ross Slater (proxy) |
| WALGA South West Country Zone Committee | 88 | Mr David Smith (Mayor) 1st proxy: Cr Stephen Craddock (D/Mayor) 2nd proxy: Cr _____ (vacancy) |

Strategic and/or Regional Outcomes

The City's 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, three of which are relevant to the involvement of councillors in Council advisory committees and externally-managed committees, management boards or professional organisations. These are:

1. Improve relationships with state, federal and other local governments.
2. Strengthen the City of Bunbury's governance and leadership
3. Develop social capital (i.e., it is seen that part of the role of a councillor is to facilitate communication between members of the community and members of the Council)

Community and Councillor/Officer Consultation

Where a change is made to Council representation on an external group or a Council committee, the contact for that group or committee will be advised of the change as soon as practicable following this Council Meeting. No other community consultation is required.

Council Policy Compliance

Council Policy CEO7 (adopted by Council on 27 November 2007) sets out guidelines for establishment and operation of advisory committees. External Committees on which Council is represented by Councillors are not subject to this Policy.

Legislative Compliance

Sections 5.8 to 5.11 of the Local Government Act 1995, applies to establishment of Council Committees, appointment of members and tenure of membership. All appointments to a Council Committee must be by an absolute majority vote of the Council.

There are no legislative requirements for appointment of Council representatives to external organisations.

Delegation of Authority

The Chief Executive Officer has no delegated authority on this issue.

Relevant Precedents

It is normal procedure for the Council to review its list of council appointments to council committees and external bodies following an election.

Options

Option 1

Per the recommendation as printed in this report.

Option 2

Per the recommendation (as printed below) but with further amendment to committee membership as determined by Council members during the meeting.

Option 3

A Council Workshop to review membership of the Council's Committees be conducted on _____ (date to be determined by the Council).

Recommendation

Council appoints the following as members of Council Committees, or, as Council's representatives on independent committees and groups (as listed):

1. Council Committees

| Committee Name (and existing Council Membership) | New Member(s) Appointed |
|---|--------------------------------|
| <u>Bunbury Airport Advisory Committee</u> Cr Wayne Major Cr Noel Whittle | Cr _____ |
| <u>City Vision Implementation Committee</u> Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) Cr Ross Slater Cr Helen Punch | Cr _____ |
| <u>Community Access Committee</u> Cr Brendan Kelly | Cr _____ |
| <u>Greater Glen Iris / Moorlands Project Control Group</u> Mr David Smith (Mayor) Cr Alfred Leigh | Cr _____ |
| <u>Meeting Review Working Group</u> Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) | Cr _____ |
| <u>Recreation Project Control Group</u> Cr Michelle Steck | Cr _____ |
| <u>Retail Trading Implementation Committee</u> Mr David Smith (Mayor) Cr Stephen Craddock (Dep. Mayor) Cr Shane Rooney Cr Helen Punch | Cr _____ |
| <u>Youth Advisory Council</u> Cr Shane Rooney Cr Alfred Leigh | Cr _____ |

(NOTE: AN 'ABSOLUTE MAJORITY' VOTE REQUIRED)

2. External Organisations

| Body Name (and existing Council representation) | New Representative(s) Appointed |
|--|--|
| <u>South West Regional Road Group</u> Cr Ross Slater (proxy only) | Cr _____ |
| <u>WALGA South West Country Zone Committee</u> Mr David Smith (Mayor) 1st proxy: Cr S Craddock (D/Mayor) | Cr _____ (2nd Proxy Only) |

Outcome of the Council Committee Meeting – 22 July 2008

The Mayor sought nominations from Councillors for appointment to the committees with the following results:

- Cr Slater moved, Cr Major seconded the nomination of Cr Harrop to the Bunbury Airport Advisory Committee.

- Two nominations were received for the City Vision Implementation Committee.
Cr Craddock moved, Cr Major seconded the nomination of Cr Jones .
Cr Major moved, Cr Kelly seconded the nomination of Cr Harrop.
The two candidates were put to ballot and Cr Jones was appointed to the vacancy on the Committee.

- Cr Kelly moved, Cr Major seconded, the nomination of Cr Harrop to the Community Access Committee.

- Cr Leigh moved, Cr Slater seconded, the nomination of Cr Spencer to the Greater Glen Iris/Moorlands Project Control Group

- Cr Jones moved, Cr Slater seconded, the nomination of Cr Kelly to the Meeting Review Working Group.

- Cr Slater moved, Cr Punch seconded, the nomination of Cr Spencer to the Recreation Project Control Group Meeting.

- Cr Jones moved, Cr Kelly seconded, the nomination of Cr Harrop to the Retail Trading Implementation Committee.

- Cr Slater moved, Cr Leigh seconded, the nomination of Cr Spencer to the Youth Advisory Council.

- Cr Major moved, Cr Punch seconded, the nomination of Cr Slater from the position of 'proxy only' to fill the vacancy on the South West Regional Road Group.
Cr Major moved, Cr Slater seconded, the nomination of Cr Jones to fill the 'proxy only' vacancy created by Cr Slater's appointment on the South West Regional Road Group.

- Cr Major moved, Cr Punch seconded the nomination of Cr Spencer to "2nd Proxy only" vacancy on the WALGA South West Country Zone Committee.

With all vacancies filled, the recommendation (as printed below) was put to the vote and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

Council appoints the following as members of Council Committees, or, as Council's representatives on independent committees and groups (as listed):

1. Council Committees

| <i>Committee Name (and existing Council Membership)</i> | <i>New Member(s) Appointed</i> |
|---|--------------------------------|
| <u>Bunbury Airport Advisory Committee</u> <i>Cr Wayne Major</i> <i>Cr Noel Whittle</i> | <i>Cr Juliet Harrop</i> |
| <u>City Vision Implementation Committee</u> <i>Mr David Smith (Mayor)</i> <i>Cr Stephen Craddock (Dep. Mayor)</i> <i>Cr Ross Slater</i> <i>Cr Helen Punch</i> | <i>Cr Judy Jones</i> |
| <u>Community Access Committee</u> <i>Cr Brendan Kelly</i> | <i>Cr Juliet Harrop</i> |
| <u>Greater Glen Iris / Moorlands Project Control Group</u> <i>Mr David Smith (Mayor)</i> <i>Cr Alfred Leigh</i> | <i>Cr Derek Spencer</i> |
| <u>Meeting Review Working Group</u> <i>Mr David Smith (Mayor)</i> <i>Cr Stephen Craddock (Dep. Mayor)</i> | <i>Cr Brendan Kelly</i> |
| <u>Recreation Project Control Group</u> <i>Cr Michelle Steck</i> | <i>Cr Derek Spencer</i> |
| <u>Retail Trading Implementation Committee</u> <i>Mr David Smith (Mayor)</i> <i>Cr Stephen Craddock (Dep. Mayor)</i> <i>Cr Shane Rooney</i> <i>Cr Helen Punch</i> | <i>Cr Juliet Harrop</i> |
| <u>Youth Advisory Council</u> <i>Cr Shane Rooney</i> <i>Cr Alfred Leigh</i> | <i>Cr Derek Spencer</i> |

2. External Organisations

| <i>Body Name (and existing Council representation)</i> | <i>New Representative(s) Appointed</i> |
|--|--|
| <u>South West Regional Road Group</u> | <i>Cr Ross Slater</i> <i>Cr Judy Jones (proxy only)</i> |
| <u>WALGA South West Country Zone Committee</u> <i>Mr David Smith (Mayor)</i> <i>1st proxy: Cr S Craddock (D/Mayor)</i> | <i>Cr Derek Spencer</i> <i>(2nd Proxy Only)</i> |

11.2 PROPOSED HAY PARK ATHLETICS TRACK

| | |
|-----------------------------|--|
| File Ref: | A01981 |
| Applicant/Proponent: | Internal Report |
| Author: | Ben Deeley, Environmental Officer |
| Executive: | Geoff Klem, Executive Manager City Development |

Summary

Planning for the development of an international standard athletics facility at Hay Park has been underway at the City of Bunbury since 1999.

It was originally intended that a portion of a 44ha bushland remnant at Hay Park would serve as the site for the proposed facility.

The City of Bunbury referred the proposal to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* in August 2005. The City of Bunbury was subsequently advised by the EPA that it had set the level of assessment for the proposal at 'Proposal Unlikely to be Environmentally Acceptable'.

At its Meeting on the 13 February 2007, Council resolved to appeal against the level of assessment set by the EPA (Council Decision 9/07).

Correspondence was received from the Hon. David Templeman MLA, Minister for the Environment; Climate Change; Peel, on the 28th May 2008 advising that the Minister had upheld the EPA's determination and thus had dismissed the City of Bunbury's appeal against it.

It is recommended that Council accept the decision of the Minister for the Environment; Climate Change; Peel to uphold the EPA's level of assessment for the proposed development of an athletics track upon bushland at Hay Park at 'Proposal Unlikely to be Environmentally Acceptable', and as a result write to the EPA requesting that the assessment of the proposed development of an athletics track upon bushland at Hay Park be terminated under section 40A(1)(a) of the *Environmental Protection Act 1986*. Council would then continue planning for the development of the athletics track at the site currently utilised by the local Dog Club as per Council Decision 3 June 2008 (106/08).

Background

It is understood that there has been considerable interest in the possible development of an international standard athletics facility at Hay Park since the 1980's and that the City of Bunbury commenced the design of an athletics and archery facility at Hay Park in 1999.

Advice upon the proposal was sought from the Department of Environmental Protection (DEP) in March 2000, following the identification of a range of potential environmental concerns associated with it. The City of Bunbury was informed by the DEP that the proposed site, situated east of the Recreation Centre, was environmentally sensitive and that any proposed development of the site would require referral to the EPA for consideration under the provisions of the *Environmental Protection Act 1986*.

The City of Bunbury consequently opted to revise the proposal in order to minimise the resultant impact upon the native vegetation in question. Following submission of the revised proposal to the DEP for consideration in February 2003, the City was informed that the revised proposal would still require referral to the EPA owing to the likely level environmental impact associated with it.

In order to provide for the preparation of the referral documentation, the City of Bunbury engaged GHD Pty Ltd to conduct a flora survey of the site in October 2003. Based upon the results of the survey, GHD Pty Ltd concluded that:

- The site is an excellent, self-sustaining remnant which has remained in very good condition, despite being close to major areas of disturbance
- The larger Hay Park area of vegetation has been listed as containing two Threatened Ecological Communities although the vegetation described during the field survey does not match the vegetation descriptions of those two communities
- No Declared Rare or Priority flora species were observed during the survey although a number could potentially occur in such a habitat; and
- The area proposed for the athletics track is in the more disturbed part of the site, as it has been impacted by the adjoining carpark and playing fields as well as some previous soil movement. However, it is still mostly in good condition and worthy of protection if possible.

In accordance with Council Decision 357/04, the City of Bunbury hosted a workshop on the 17 February 2005 in order to provide the opportunity for community representatives and Councillors to ask questions of the EPA Service Unit in relation to the process, opportunities and obstacles associated with the assessment of the proposed athletics facility by the EPA.

GHD Pty Ltd was commissioned by the City of Bunbury to prepare an Environmental Impact Assessment and referral documentation for the proposal for submission to the EPA in June 2005. The documents were submitted to the EPA on 24 August 2005 following endorsement by Council at its Meeting on the 9 August 2005 (Council Decision 179/05).

Correspondence was received from the Chairman of the EPA, Mr Walter Cox, in March 2006, which outlined the EPA's preliminary advice in relation to the proposal. Mr Cox indicated that in his opinion, and based upon current information, that the proposal was not environmentally acceptable and could not be made acceptable through modification. Mr Cox advised the City that it had 20 days to withdraw the proposal, otherwise the EPA would proceed to set the level of assessment for it.

A letter was sent to the EPA on the 5 January 2007, requesting that the level of assessment for the proposal be set following Council Decision (244/06) at its Meeting on the 12 December 2006.

Correspondence was received from the Chairman of the EPA, Mr Walter Cox, on the 2 February 2007 indicating that the EPA had considered the proposal and had concluded that the proposal was incapable of meeting the EPA's objectives and had thus set the level of assessment at 'Proposal Unlikely to be Environmentally Acceptable'. Mr Cox further advised that if the City or any other party disagrees with the EPA's decision, that there is a 14-day appeal period (closing the 19 February 2007) where the Minister for the Environment can be requested to direct the EPA to assess the proposal more fully and more publicly as either a 'Public Environmental Review' ("PER") or 'Environmental Review and Management Program' ("ERMP").

Mr Gary Williams, Program Manager EPA Service Unit, was contacted via telephone on the 7 February 2007 to determine the likely implications for the City of Bunbury should it choose to appeal the EPA's determination and this appeal be upheld by the Minister for the Environment. Mr Williams advised that should the Minister uphold any appeals against the EPA's determination, it is likely that the proposal would be assessed as a PER. Mr Williams was able to further advise that this process is likely to take between 12 and 18 months of concerted investigation, reporting and public consultation by the City of Bunbury in order to complete.

At its Meeting on the 13 February 2007, Council resolved to appeal the EPA's level of assessment for the proposal (Council Decision 9/07).

Correspondence was received from the Hon. David Templeman MLA, Minister for the Environment; Climate Change; Peel ("the Minister"), on the 28 May 2008 regarding the City of Bunbury's appeal against the EPA's level of assessment.

The Minister stated that a total of two appeals were received in relation to the EPA's determination and that the combined grounds of appeal were as follows:

1. Vegetation represented on the site and the amount of clearing proposed
2. Presence of Threatened Ecological Communities (TECs); and
3. Presence of Threatened Fauna.

The Minister also noted that the City of Bunbury had requested him to require the EPA to carry out a full assessment of the proposal in order to allow the City the opportunity to demonstrate that the environmental impacts of the proposal could be adequately managed.

The Minister stated that he agreed with the advice of the Appeals Convenor that the potential loss of Southern River Complex vegetation, the potential loss of a Conservation Category Wetland and possible impacts on TECs were 'fatal flaw' issues for the proposal. The Minister also stated that he did not consider the possible presence of Threatened Fauna as being relevant to the determination of the appeals.

The Minister's concluding remarks and decision upon the matter are detailed below:

"It follows from this that I find that the first two grounds of appeal do not have environmental merit as the proposal would, if implemented, have unacceptable impacts on the environment. I note the Appeals Convenor's advice that the EPA's position in relation to this proposal is clear and based on up to date information. I find that it is highly unlikely that a full assessment would reveal new information that would lead the EPA to a different conclusion. I consider, therefore, that the EPA was correct to set the level of assessment for this proposal at 'Proposal Unlikely to be Environmentally Acceptable'. It follows from this that I have dismissed these two appeals.

Finally, I note that as part of the appeals process, the City raised with the Appeals Convenor the question of whether a proposal relocated elsewhere on the site but close by the original one could be acceptable. I note the advice from the EPA that this relocated proposal would still impact on Southern River Complex vegetation, one TEC and potential habitat for listed fauna. I support the EPA view that the City of Bunbury should focus its efforts on finding less environmentally sensitive sites for the proposal, preferably within the cleared areas of Hay Park or in other locations".

The Office of the Appeals Convenor was contacted on the 1 July 2008 in order to clarify how the assessment process would progress from this point forward. Mr Jean-Pierre Clement, Senior Appeals Assessor, advised accordingly:

- The EPA will now conduct an assessment of the proposal at the Proposal Unlikely to be Environmentally Acceptable' level and will document its findings within an assessment report prepared for the Minister
- Once completed, the assessment report will be published under section 44 of the *Environmental Protection Act 1986* and be subject to a 14 day appeal period
- Following the resolution of appeals (if any), section 45 of the *Environmental Protection Act 1986* requires the Minister, in consultation with other relevant decision-making authorities, to determine whether or not the proposal should be implemented, and if so, on what conditions
- If it is determined that the proposal may proceed, the Minister will publish a statement to that effect. The City of Bunbury (as the proponent) will have the opportunity to appeal any conditions or procedures contained within the Minister's statement for a period of 14 days following the statement's publication; and
- If it is determined that the proposal may not proceed, the Minister will publish a statement to that effect. This statement is not subject to appeal.

Given that both the EPA and the Minister have previously indicated that the proposal is unlikely to be environmentally acceptable, it is expected to be very difficult for Council to mount a successful case in support of the proposal. Also, the assessment process as described above is likely to take several months to complete and thus may further delay the subsequent development of the athletics track.

The City of Bunbury has been planning for the development of the athletics track at alternative sites for some time. At its Meeting on the 3 June 2008, Council decided as follows (Council Decision 106/08):

Council Decision 106/08

1. *That Council endorse the preferred location for the proposed Bunbury Regional Athletics Track as recommended by the City's Recreation Project Control Group and detailed in the report.*
2. *That a copy of this report be provided to all sporting groups within Hay Park and to the Bunbury Senior and Little Athletics Clubs.*
3. *That Council write to the Premier, Minister for Sport and Recreation and Minister for the South West advising them of the determination of a preferred location for an international standard synthetic running track in Hay Park and seek their support to make the project a reality.*
4. *That the Chief Executive Officer be authorised to approach community members to form a Community Committee to assist with liaison with interested sporting groups / individuals for the purpose of fundraising, sponsorship and advice on the design of the proposed new synthetic athletic track and associated infrastructure.*
5. *That Council's Recreation Planner liaise with the Bunbury Dog Club and seek to identify a suitable alternative venue for dog training and competition events. Report to be submitted to Council's Recreation Project Control Group on suggested options no later than December 2008.*

It is recommended that Council:

1. Accept the decision of the Minister for the Environment; Climate Change; Peel to uphold the EPA's level of assessment for the proposed development of an athletics track upon bushland at Hay Park at 'Proposal Unlikely to be Environmentally Acceptable'
2. Write to the EPA requesting that the assessment of the proposed development of an athletics track upon bushland at Hay Park be terminated under section 40A(1)(a) of the *Environmental Protection Act 1986*; and
3. Continue planning for the development of the athletics track at the site currently utilised by the local Dog Club as per Council Decision 106/08.

N.B. If Council requests the EPA to terminate the assessment process and then later decides to revisit the proposal, the assessment process will recommence from its current point. If the assessment process is terminated, no costs will be borne by Council as a direct result.

Strategic and/or Regional Outcomes

Construction of the proposed athletics track elsewhere will provide for the conservation of the bushland at Hay Park, which has been identified by the EPA as a 'critical asset', representing one of the most important environmental assets in the State.

Alternative sites are available for the development of the athletics track (e.g. the local Dog Club site) and thus the decision not to utilise the remnant bushland area at Hay Park is unlikely to preclude the development of the athletics facility within the City of Bunbury.

Community Consultation

Council's Sportsgrounds Development Committee, which comprises Councillors and community representatives from sporting organisations and clubs that utilise Hay Park's facilities have discussed the proposal at length over the course of its development.

This matter has been previously discussed with officers of the Department of Environment, Environmental Protection Authority Services Unit and Department of Conservation and Land Management (now Department of Environment and Conservation).

Councillor/Officer Consultation

There have been four (4) meetings to discuss the conservation significance of this area, occurring in October 2000, October 2002, February 2003 and July 2004 and attended by officers of the City. Furthermore and in accordance with the Council Decision 357/04 a workshop hosted by the City of Bunbury on 17 February 2005 was attended by representatives of the Environmental Protection Service Unit, elected members, the Executive Management Team, technical and planning staff.

This preceded further discussion on the issue at a Council meeting held 2 August 2005 leading to a decision to refer the proposal to the EPA for consideration under the provisions of the *Environmental Protection Act 1986*. At its Meeting on the 13 February 2007, Council decided to appeal the level of assessment set for the proposal by the EPA.

Analysis of Financial and Budget Implications

The Executive Recommendation is unlikely to result in any unforeseen financial or budget implications for Council.

Economic, Social, Environmental and Heritage Issues

The Executive Recommendation is unlikely to result in any unforeseen economic, social, environmental or heritage implications for Council.

Construction of the proposed athletics track elsewhere will provide for the conservation of the bushland at Hay Park, which has been identified by the EPA as a 'critical asset', representing one of the most important environmental assets in the State.

Council Policy Compliance

There are no Council policies relevant to this proposal.

Legislative Compliance

Legislative requirements to date have been met.

Delegation of Authority

The Chief Executive Officer has no delegated authority on this issue.

Relevant Precedents

Council has previously considered this the issues relating to this matter.

Options

Option 1

As per the Recommendation as listed in this report.

Option 2

Council continues to progress with the proposal by awaiting the publication of the Environmental Protection Authority's assessment report to the Minister and considers appealing the content and recommendations of the report at that time.

Conclusion

Given that both the EPA and the Minister have previously indicated that the proposal is unlikely to be environmentally acceptable, it is expected to be very difficult for Council to mount a successful case in support of the proposal. Also, the assessment process as described is likely to take several months to complete and thus may further delay the subsequent development of the athletics track.

As such, the recommendation is strongly supported and option 2 is not supported.

Recommendation

1. Council accept the decision of the Minister for the Environment; Climate Change; Peel to uphold the Environmental Protection Authority's level of assessment for the proposed development of an athletics track upon bushland at Hay Park at 'Proposal Unlikely to be Environmentally Acceptable'
2. Council write to the Environmental Protection Authority requesting that the assessment of the proposed development of an athletics track upon bushland at Hay Park be terminated under section 40A(1)(a) of the *Environmental Protection Act 1986*; and
3. Council continue planning for the development of the athletics track at the site currently utilised by the local Dog Club as decided at the Council Meeting 3 June 2008 (Council Decision 106/08).

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Craddock, seconded Cr Leigh and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

1. *Council accept the decision of the Minister for the Environment; Climate Change; Peel to uphold the Environmental Protection Authority's level of assessment for the proposed development of an athletics track upon bushland at Hay Park at 'Proposal Unlikely to be Environmentally Acceptable'*
2. *Council write to the Environmental Protection Authority requesting that the assessment of the proposed development of an athletics track upon bushland at Hay Park be terminated under section 40A(1)(a) of the Environmental Protection Act 1986; and*
3. *Council continue planning for the development of the athletics track at the site currently utilised by the local Dog Club as decided at the Council Meeting 3 June 2008 (Council Decision 106/08).*

11.3 BUNBURY REGIONAL THEATRE INC NOMINATIONS FOR MEMBERSHIP

| | |
|-----------------------------|--|
| File Ref: | A00170 |
| Applicant/Proponent: | Dana Trtica – Bunbury Regional Theatre Inc. |
| Author: | Jackie Massey, Manager Economic & Social Development |
| Executive: | Domenic Marzano, Executive Manager City Life |

Summary

The Bunbury Regional Theatre Inc manages the Bunbury Regional Entertainment Centre. Under the constitution of the incorporated body, the City of Bunbury has the right to endorse all appointments made to its Board of Management.

Five positions became vacant on 1 July 2008. Correspondence has been received from the Chair of the Board's Selection Panel, Ms Dana Trtica, requesting Council to endorse new Board members prior to the next scheduled meeting of the Board on 31 July 2008.

An extract from the City's Committee Book showing the Role and/or Purpose of the Board is **attached** at Appendix 2.

Background

The Bunbury Regional Entertainment Centre is a City of Bunbury asset. It opened in 1990 and provides the people of Bunbury and the South West Region with the opportunity to view and participate in performances staged in a top-class facility.

The Bunbury Regional Theatre Inc is an independent, not-for-profit community organisation charged with management of the Bunbury Regional Entertainment Centre. The Management is comprised of interested members of the community with a commitment to the performing arts.

The City of Bunbury contributes funding for the operation of the Bunbury Regional Entertainment Centre. Accordingly, the Bunbury Regional Theatre Inc constitution permits at least one (1) sitting Bunbury City Councillor to be a member of its Management Board. The constitution also requires all appointments to the Board to be endorsed by Council.

Five positions became vacant on 1 July 2008. The Bunbury Regional Theatre Inc has advised that it called for nominations to fill these vacancies via advertisements in the press on 7, 8, 14 and 15 May 2008. It received nominations from its five retiring members plus three community members.

Accordingly, the Bunbury Regional Theatre Inc now requests that the following retiring members be reappointed to the Board for a 2 year term:

- Ms Robyn Fenech
- Mr Simon Jacob
- Dr Robyn McCarron
- Mr Rob Rumball
- Mr John Ventris

It is also recommended that Ms Jenelle Dunn be appointed to the Board for a 1 year term under "Membership of Corporation" Clause 4 (2) (e) in the constitution which states:

"other than the, not less than EIGHT (8) and no more than TEN (10), elected members and notwithstanding any thing mentioned in section 4 the Corporation may recruit temporary members who, at the discretion of the Corporation may enjoy the usual rights of their appointment for special projects and shall be only appointed by unanimous agreement by members of the Corporation."

Strategic and/or Regional Outcomes

The proposal complies with the City of Bunbury Strategic Plan 2007-2012 and in particular Strategy 6: *"Develop Social Capital."*

Community Consultation

The Bunbury Regional Theatre Inc called for nominations for membership of the Board via public notices in the print media on 7, 8, 14 and 15 May 2008.

Councillor/Officer Consultation

Councillors representing the City of Bunbury on the Board are:

- Deputy Mayor- Councillor Stephen Craddock
- Councillor Helen Punch (proxy only)

Analysis of Financial and Budget Implications

Appointment of members to the Board will have no effect on the City's existing budget for the Bunbury Regional Entertainment Centre which is a City of Bunbury asset.

Economic, Social, Environmental and Heritage Issues

The proposal ensures interested community members with relevant experience, have the opportunity to involve themselves in (and contribute to) the Bunbury Regional Entertainment Centre, thereby promoting community ownership of the Centre and encouraging commitment to community life.

Council Policy Compliance

There is no Council Policy in relation to this matter.

Legislative Compliance

The constitution of the Bunbury Regional Theatre Inc requires Council endorsement of appointments to its Board of Management.

Delegation of Authority

The Chief Executive Office has no delegated authority on this issue.

Relevant Precedents

Council endorses the appointment of members to the Bunbury Theatre Inc Board on an annual basis. Appointment of Board members was last endorsed by the Council on 3 July 2007.

Options

Option 1

As per the recommendation as listed in this report

Option 2

Council may elect not to endorse any (or all) of the recommended appointments and request the Bunbury Regional Theatre Inc to review its recommendation and/or re-call for nominations.

Conclusion

Each year the Bunbury Regional Theatre Inc makes recommendations to Council regarding the composition of its Board of Management. To date, the Board has proven itself to be effective and committed which is reflected in the appropriateness of its recommendations.

The capacity of the Bunbury Regional Theatre Inc to operate effectively is compromised when vacancies exist on its Board.

The Chair of the Selection Panel, Ms Dana Trtica, has requested a decision by Council in time for the Board's meeting on 31 July.

Recommendation

Pursuant to the constitution of the Bunbury Regional Theatre Incorporated, the City of Bunbury endorses appointment of the following members to the Theatre's Board of Management for the terms as stated:

1. Re-appointment of the following members for 2 year terms (to expire 30 June 2010):
 - Ms Robyn Fenech
 - Mr Simon Jacob
 - Dr Robyn McCarron
 - Mr Rob Rumball
 - Mr John Ventris

2. Appointment of new member Ms Jenelle Dunn, for a 1 year term (to expire 30 June 2009).

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Major, seconded Cr Slater and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

Pursuant to the constitution of the Bunbury Regional Theatre Incorporated, the City of Bunbury endorses appointment of the following members to the Theatre's Board of Management for the terms as stated:

1. *Re-appointment of the following members for 2 year terms (to expire 30 June 2010):*
 - *Ms Robyn Fenech*
 - *Mr Simon Jacob*
 - *Dr Robyn McCarron*
 - *Mr Rob Rumball*
 - *Mr John Ventris*

2. *Appointment of new member Ms Jenelle Dunn, for a 1 year term (to expire 30 June 2009).*

ABSOLUTE MAJORITY VOTE REACHED.

11.4 PROPOSED APPOINTMENT TO CITY OF BUNBURY ART COLLECTION MANAGEMENT COMMITTEE

| | |
|-----------------------------|--|
| File Ref: | A02311 |
| Applicant/Proponent: | Internal Report |
| Author: | Paul Hayward, Cultural Development Officer |
| Executive: | Domenic Marzano, Executive Manager City Life |

Summary

It is proposed to appoint Colleen Gillick as a 'Community Representative' on the City of Bunbury Art Collection Management Committee. An extract from the City's Committee Book showing the committee's Terms of Reference is **attached** at Appendix 3.

Background

The City of Bunbury Art Collection Management 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:

Community Members:

- Dr Lorna Kaino
- Tresslyn Smith
- Ronald Middleton
- Charmian Brigden
- Rosemary Nicholson
- Paul Robertson

Ex-officio:

- Greg White – Curator
- Paul Hayward – Cultural Development Officer
- Sonya Dye – Director Bunbury Regional Art Galleries

Councillors

- Cr Helen Punch
- Cr Michelle Steck

Colleen Gillick has served as the Society of Artists representative on the City of Bunbury Art Collection Committee for over seven years, however as this group has disbanded recently, she is no longer able to serve in this capacity. During her time on the committee, Colleen has demonstrated a level of enthusiasm and commitment that has proven integral to the realisation of the committee's strategic goals. Moreover, Colleen has a well-developed knowledge of the City's art collection and general art collection/acquisition practises. Her ongoing participation as a community member with full voting rights and would be extremely beneficial to the committee.

It is recommended the appointment coincide with the term of the Committee to expire on Council Election Day – October 2009.

Strategic and/or Regional Outcomes

The City's 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

The nominee, Colleen Gillick, was alerted to the vacancy as a previous member of the City of Bunbury Art Collection Committee.

Councillor/Officer Consultation

Colleen Gillick's re-appointment to the committee as a community member has been discussed during committee meetings and evidenced in meeting minutes. Therefore, the relevant Councillor's and City of Bunbury Officers have been informed of her intention to re-nominate throughout the process.

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) of the *Local Government Act 1995* 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.

Delegation of Authority

The Chief Executive Officer has no delegated 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

Per the recommendation as listed in this report.

Option 2

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

Option 3

That Colleen Gillick not be appointed to the City of Bunbury Art Collection Management Committee.

Recommendation

That Colleen Gillick be appointed as a 'Community Representative' on the City of Bunbury Art Collection Management Committee to coincide with the term of the Committee to expire on Council Election Day – October 2009.

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Slater, seconded Cr Major and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

That Colleen Gillick be appointed as a 'Community Representative' on the City of Bunbury Art Collection Management Committee to coincide with the term of the Committee to expire on Council Election Day – October 2009.

ABSOLUTE MAJORITY VOTE REACHED

11.5 COUNCIL SUPPORT FOR THE PROPOSED DEDICATION OF LOT 100 ROBERTSON DRIVE, BUNBURY AS A “ROAD”

| | |
|-----------------------------|--|
| File Ref: | R00702 |
| Applicant/Proponent: | Main Roads South West Region |
| Author: | Beatrice Plant, City Engineer |
| Executive: | Michael Scott, Executive Manager City Services |

Summary

On the 3 June 2008 the City of Bunbury received a request from Main Roads South West Region (**attached** at Appendix 4) to support their request to the Department of Planning and Infrastructure to the dedication of Lot 100 as a “Road” in accordance with Section 56 of the Land Administration Act. This lot currently accommodates part of the Robertson Drive carriage ways.

Background

The current alignment of Robertson Drive incorporates Lot 100 which was surveyed and excised from Lot 200 to accommodate the construction of Robertson Drive. However due to an oversight Lot 100 was never dedicated into the road reserve.

Strategic and/or Regional Outcomes

There are no strategic or regional outcomes to consider.

Community Consultation

Under Section 56 of the Land Administration Act 1997 no community consultation is required.

Councillor/Officer Consultation

The City’s Executive has considered the proposal and has no objections to the dedication.

Analysis of Financial and Budget Implications

There will be no effect on the City’s Annual Budget as a result of the proposed dedication of Lot 100 as a “Road” as Main Roads South West Region will be responsible for and has indemnified the City against all fees, charges and costs associated with the proposal. (**attached** at Appendix 5).

Economic, Social, Environmental and Heritage Issues

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

Council Policy Compliance

There are no Council Policies relevant to this proposal.

Legislative Compliance

Where (in a district of a local government) land is used by the public as a road, then, compliant to Section 56 of the Land Administration Act 1997, the Council is required to pass a decision supporting the dedication of the land as a “Road”.

Delegation of Authority

The Department of Planning and Infrastructure require the official consent of the Council to instigate the dedication of Lot 100 as a “Road”.

Relevant Precedents

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

Options

Option 1

Per the recommendation as listed in this report.

Option 2

Council not support the dedication of Lot 100 as a “Road”.

Conclusion

The current alignment of Robertson Drive incorporates a portion of Lot 100. Dedication of Lot 100 as a “Road” should have been undertaken prior to the construction of Robertson Drive, however, this appears to have been overlooked.

The City is now requested by way of a Council Decision to support Main Roads South West Region’s application to the Department of Planning and Infrastructure for Lot 100 to be dedicated as a “Road” under Section 56 of the Land Administration Act. Main Roads South West Region has indemnified the City against all costs arising from the dedication of Lot 100 as a “Road” **attached** at Appendix 5.

Recommendation

1. Council request the Department of Planning and Infrastructure to dedicate Lot 100 as shown on Diagram 46989 as a “Road” under Section 56 of the Land Administration Act.
2. Council indemnify the Department of Planning and Infrastructure against all costs associated with the dedication, having received a like indemnity from Main Roads South West Region.

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Jones, seconded Cr Major and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

1. *Council request the Department of Planning and Infrastructure to dedicate Lot 100 as shown on Diagram 46989 as a “Road” under Section 56 of the Land Administration Act.*
2. *Council indemnify the Department of Planning and Infrastructure against all costs associated with the dedication, having received a like indemnity from Main Roads South West Region.*

11.6 BIG SWAMP WILDLIFE PARK STEERING COMMITTEE – PROPOSED APPOINTMENTS

| | |
|-----------------------------|--|
| File Ref: | A00143 |
| Applicant/Proponent: | Internal Report |
| Author: | Grant Bilton, Senior Technical Officer |
| Executive: | Michael Scott, Executive Manager City Services |

Summary

Subsequent to the Ordinary Council Election held on 22 October 2007, it is proposed to appoint Richard Pickett and David Lindsay Grigg to fill vacancies on the Big Swamp Wildlife Park Steering Committee.

A copy of the nominees details are issued under confidential report.

Background

Following the Ordinary Election held in October 2007 nominations were invited from the public to fill the five vacancies on the Committee. Two nominations were received and duly appointed.

On 7 and 14 May 2008 the remaining three vacancies were re-advertised and at the close of nominations the following nominations were received:

- Richard Pickett
- David Lindsay Grigg

Nominations were referred to the Committee Meeting of 7 July 2008 and were duly endorsed and are consequently recommended to Council with the appointment to coincide with a term to expire on Council Election Day – October 2009.

The *Terms of Reference* for the committee can be found in the committee book on page 18.

Strategic and/or Regional Outcomes

The City's 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, three of which are relevant to the involvement of councillors in Council advisory committees and externally-managed committees, management boards or professional organisations. These are:

1. Improve relationships with state, federal and other local governments.
2. Strengthen the City of Bunbury's governance and leadership

3. Develop social capital (i.e., it is seen that part of the role of a councillor is to facilitate communication between members of the community and members of the Council)

Community Consultation

Nominations for three (3) vacancies on the Committee were re-advertised on the 7 and 14 May 2008. At the close of nominations on 21 May 2008, two (2) nominations were received.

Councillor/Officer Consultation

Council Representatives and members of Big Swamp Wildlife Park Committee have been informed of the nomination received by Richard Pickett and David Grigg at the recent meeting of the committee held on 7 July 2008.

Analysis of Financial and Budget Implications

Funding for development of the Big Swamp Wild Life Park and forms part of Council's Municipal Budget.

Economic, Social, Environmental and Heritage Issues

New committee members to the Big Swamp Wildlife Park Steering Committee will not have any direct impacts upon the abovementioned issues.

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

Sections 5.8 to 5.11 of the Local Government Act 1995, applies to establishment of Council Committees, appointment of members and tenure of membership. All appointments to a Council Committee must be by an absolute majority vote of the Council.

There are no legislative requirements for appointment of Council representatives to external organisations.

Delegation of Authority

The Chief Executive Officer has no delegated authority on this issue.

Relevant Precedents

It is normal procedure for the Council to review its list of council appointments to council committees and external bodies following an election.

Options

Option 1

Per the recommendation as listed in this report.

Option 2

Per the recommendation (as printed below) but with further amendment to committee membership as determined by Council members during the meeting.

Conclusion

The Big Swamp Wildlife Park Committee is a small enthusiastic group. Its members all contribute to the future development of the Wildlife Park. Council's endorsement of two (2) new committee members Richard Pickett and David Grigg will enhance the committee by increasing community representation from 2 to 4.

Recommendation

Council endorse the appointment of Richard Pickett and David Lindsay Grigg to the Big Swamp Wildlife Park Committee with a term to expire on Council Election Day – October 2009.

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Slater, seconded Cr Leigh and adopted *12 votes "for" to Nil votes "against"* to become the Committee's recommendation on this issue.

Committee Recommendation

Council endorse the appointment of Richard Pickett and David Lindsay Grigg to the Big Swamp Wildlife Park Committee with a term to expire on Council Election Day – October 2009.

ABSOLUTE MAJORITY VOTE REACHED

**11.7 TOWN PLANNING SCHEME AMENDMENT – PORTION OF LOT 14 (NO. 7)
GARVEY PLACE, BUNBURY – REZONE TO MIXED BUSINESS**

| | |
|-----------------------------|--|
| File Ref: | P03561 |
| Applicant/Proponent: | Griffiths Planning on behalf of Gard Realty |
| Author: | Lindsay Bergsma, Planning Officer |
| Executive: | Geoff Klem, Executive Manager City Development |

Summary

Griffiths Planning, who act on behalf of Gard Realty, has lodged an application with the City to amend the current Town Planning Scheme No. 7 (TPS No. 7). The proposal is to rezone a portion of Lot 14 #7 Garvey from its current “Residential” (R15) zoning to “Mixed Business” zone.

The land proposed to be rezoned is a 246m² portion of the eastern side of the subject lot. The adjoining lot to the east is Lot 15 #78 Spencer Street, the lot on which Gard Realty are currently situated (which is currently zoned “Mixed Business”). The proposed amendment seeks to adjust the boundary to create a larger mixed business development site.

The proposed rezoning is referred to Council for its consideration and determination.

Background

The lot subject of the proposed rezoning is Lot 14 #7 Garvey Place. A location plan of the subject lot is **issued under separate cover** at Attachment 1.

Griffiths Planning was engaged by Gard Realty to progress a rezoning which reflects the landowner’s intention to reposition the boundary between Lot 14 #7 Garvey Place and Lot 15 #78 Spencer Street. The landowner is requesting that the land be rezoned to provide the opportunity to increase the size of Lot 15 to provide a larger mixed business site.

In regards to the current land use, Lot 14 #7 Garvey Place includes an existing dwelling and associated outbuildings. Lot 15 #78 Spencer Street is currently developed as an office and is occupied by Gard Realty (see photo 1, **issued under separate cover** at Attachment 2.)

Proposal

The proposal is to rezone a portion of Lot 14 #7 Garvey from its current “Residential” (R15) zoning to “Mixed Business” zone. The land proposed to be rezoned is a 246m² portion of the eastern side of the subject lot.

A diagram of the proposed amendment to the Scheme map is **issued under separate cover** at Attachment 3.

A subdivision concept plan was also submitted and is **issued under separate cover** at Attachment 4. It reflects the future boundaries of the proposed lots. The main reason given by the applicant for the proposed boundary realignment and rezoning is that the expansion will facilitate an extension to the existing carpark facilities on the Gard Realty site. The applicant argues that the initiative seeks to ensure that any parking requirements related to the land use are located onsite to reduce the level of on street parking in the vicinity and subsequently support the flow of traffic towards the busy intersection of Spencer and Beach Road.

The following section of the report will respond to the applicant's arguments. Relevant criteria will be used to consider the matter and will help Council in determining as to whether it will, or will not, support the proposed Scheme Amendment.

Residential Design Codes

The current land use of the subject site includes an existing dwelling and associated outbuildings. Since the site is zoned "Residential" with an R15 coding, the Residential Design Codes (R-Codes) apply. The R-Codes state that a minimum lot size of 580m² is applicable for R15 coded areas and minimum front and rear setbacks of 6m apply. The proposed boundary realignment and rezoning ensures that the resultant minimum lot size of Lot 14 #7 Garvey Place would be 580m². The minimum setback requirements would also be maintained.

Land Use

As indicated earlier, the main justification given by the applicant for the proposed boundary realignment and rezoning is that the expansion will facilitate an extension to the existing carpark facilities on the Gard Realty site. However, it is questioned why the extension to the carpark is required. The City's Town Planning Scheme No. 7 (TPS No. 7) states that for an 'office' use, the parking requirements are 1 space for every 50m² gross floor area. The total floor area for the current office use on site is less than 400m². Therefore eight parking bays would be sufficient for the site and at present there are at least eight parking bays already on site (part of the existing carpark can be seen in photo 3, **issued under separate cover** at Attachment 5). The proposed extension of the carpark facilities for Gard Realty therefore seems unnecessary and the justification put forward by the applicant for the Scheme Amendment seems unfounded.

The applicant also argues that proposal seeks to ensure that any parking requirements related to the land use are located onsite to reduce the level of on street parking in the vicinity and subsequently support the flow of traffic towards the busy intersection of Spencer and Beach Road. However, the justification again seems to be unfounded in that no street parking is present along Spencer Street near Gard Realty (see photo 4 showing part of Spencer Street near the front of Gard Realty, **issued under separate cover** at Attachment 6). Street parking is in fact prohibited along this section of Spencer Street.

Notwithstanding the above, there is also concern that the area proposed to be rezoned could, at a later stage, be subject to further development. Once the proposed area was rezoned (and even if it was initially used as carparking), there would be no reason why further development (e.g. showrooms or other permitted uses) could not take place on the site. If this was the case, the impact on the existing residences in Garvey Place could be dramatically increased due to the decrease in the distance between the potentially conflicting land uses.

Strategic Planning

Under the current Town Planning Scheme, Lot 14 #7 Garvey Place and Lot 15 #78 Spencer Street are zoned “Residential” and “Mixed Business” respectively. The lots follow a pattern of the area generally in which the lots facing Spencer Street are zoned “Mixed Business” and the lots back (west) from this point are zoned “Residential”. The residential area (Garvey Place in particular in this case) is a well established area with good amenity (a photo of the existing house at Lot 14 #7 Garvey Place can be seen in photo 2, **issued under separate cover** at Attachment 2). Therefore, currently there is a clear and defined boundary between well established residential zoned land and mixed business zoned land.

Development Services is of the opinion that the proposal is only likely to impact negatively on the area in general. If the proposed rezoning were initiated and adopted the mixed business zoned land would encroach into the existing residential area. The proposal creates another interface with the residential area and as a result there would be a possible increase in detrimental affect the commercial land use has on residential land in the area.

Further to this, there is concern that if the proposal was initiated and adopted it could possibly set a precedent which could compound the issue and further impact the well established residential area. These potential issues should be avoided and the land uses and zonings should be maintained as they are currently.

Local Planning Policies

The applicant noted in the Scheme Amendment report that Lot 14 #7 Garvey Place is within the area identified in the City’s Local Planning Policy- Non Residential Development in or adjacent to Residential Areas. The lot is within a “frame” area identified in the Policy which indicates that non residential uses may be considered in this residential area.

The applicant argues that the objectives of the Policy provides flexibility in the frame areas, recognising the transition of uses and flexibility considered appropriate in these areas. However the applicant also acknowledges that the Policy relates to non residential uses defined under the Scheme as ‘D’ and ‘A’ (discretionary) uses within the residential zone. The relevant use in this case however is ‘office’ which is an ‘X’ (not permitted) use in the residential zone. Therefore although the applicant’s argument can be seen to have some merit, in reality the Policy is not relevant in this particular case.

The applicant in the Scheme Amendment report also referred to the Local Planning Policy-Office Use within the Mixed Business Zone. The applicant simply highlighted that the proposal accords with the Policy intent. However, the applicant also acknowledged that the subject lot was outside of the Policy area and that there were no implications for the proposal.

Strategic and/or Regional Outcomes

The City's 2007 – 2012 Strategic Plan states that "The City will ensure that it maintains a comprehensive and fully integrated planning system to meet community expectations." The Recommendation of this report aims to achieve that strategy.

Community Consultation

No community consultation was necessary in this instance. The Scheme did not require the proposal to be advertised.

Councillor/Officer Consultation

This matter has been discussed amongst both the Strategic and Statutory Planning staff.

Analysis of Financial and Budget Implications

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

Economic, Social, Environmental and Heritage Issues

There are no known environmental or economic implications regarding the proposal. The premises is not listed under the City's Municipal Inventory. With regard to social implications, there are some potential issues which have been discussed throughout this report.

Council Policy Compliance

It is considered that the Recommendation does not contravene any known operable Council policy.

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 Office does not have delegated authority on this issue.

Relevant Precedents

There are no known relevant precedents.

Options

Option 1

Per the recommendation as listed in this report.

Option 2

Should Council resolve to grant its support for the initiation of the proposed Scheme Amendment, 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:

1. To initiate a Scheme Amendment in respect of Lot 14 #7 Garvey Place, Bunbury, to allow an amendment to the current Town Planning Scheme from the current designation, "Residential" zone, to "Mixed Business" zone.
2. To advise the applicant of Council's decision.

Conclusion

Griffiths Planning has lodged an application with the City to amend the current Town Planning Scheme. Development Services is of the opinion that the proposal is only likely to impact negatively on the surrounding residential area since the mixed business zoned land would encroach into the existing well established residential area and may also set a precedent which could compound the issue. The main reasons and justification given by the applicant for the proposed boundary realignment and rezoning also seem to be unfounded.

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. Not to initiate a Scheme Amendment in respect of Lot 14, #7 Garvey Place, Bunbury, to allow an amendment to the current Town Planning Scheme from the current designation, "Residential" zone, to "Mixed Business" zone.
2. To advise the applicant of Council's decision.

Outcome of the Council Committee Meeting – 22 July 2008

Council referred to a memorandum that was circulated prior to the meeting which advised that applicant had requested that this item be withdrawn from the Committee Agenda.

A copy of the memorandum is **attached** at Appendix 6.

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

Nil

14. ITEMS TO BE NOTED OR ENDORSED

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

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

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 – Bunbury Environment & Sustainability Advisory Committee (5/06/2008)
Author: Ben Deeley, Environmental Officer
File: A02445
2. Title: Minutes – Bunbury Regional Roadwise Committee (9/06/2008)
Author: Stewart Parkinson, Project Manager
File: A02351
3. Title: Minutes – Heritage Advisory Committee (18/06/2008)
Author: Leigh Barrett, Planning Officer
File: A00335
4. Title: Minutes – Youth Advisory Council (20/05/2008, 25/06/2008 & 2/07/2008)
Author: Adam Johnson, Community Development Officer
File: A00773

5. Title: Building Approvals Issued 1 to 30 June 2008
Author: Gary Fitzgerald, Manager Development Services
File: A00566
6. Title: Minutes – City of Bunbury Promotions Committee (16/06/2008)
Author: Michael Fraser, Events Officer
File: A03402
7. Title: Accounts for Payment for the Period 1 to 30 June 2008
Author: David Ransom, City Accountant
File: A00083

Outcome of the Council Committee Meeting – 22 July 2008

The recommendation was moved Cr Major, seconded Cr Slater and adopted *12 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 – Bunbury Environment & Sustainability Advisory Committee (5/06/2008)*
Author: *Ben Deeley, Environmental Officer*
File: *A02445*
2. Title: *Minutes – Bunbury Regional Roadwise Committee (9/06/2008)*
Author: *Stewart Parkinson, Project Manager*
File: *A02351*
3. Title: *Minutes – Heritage Advisory Committee (18/06/2008)*
Author: *Leigh Barrett, Planning Officer*
File: *A00335*
4. Title: *Minutes – Youth Advisory Council (20/05/2008, 25/06/2008 & 2/07/2008)*
Author: *Adam Johnson, Community Development Officer*
File: *A00773*
5. Title: *Building Approvals Issued 1 to 30 June 2008*
Author: *Gary Fitzgerald, Manager Development Services*
File: *A00566*
6. Title: *Minutes – City of Bunbury Promotions Committee (16/06/2008)*
Author: *Michael Fraser, Events Officer*
File: *A03402*
7. Title: *Accounts for Payment for the Period 1 to 30 June 2008*
Author: *David Ransom, City Accountant*
File: *A00083*

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

Nil.

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 8.26pm.

CONFIRMED this day 12 August 2008, to be a true and correct record of proceedings of the Council (Standing) Committee Meeting held 22 July 2008.

MAYOR DAVID SMITH
PRESIDING MEMBER