



Bunbury City Council

Minutes 27 April 2010



City of Bunbury
4 Stephen Street
Bunbury WA 6230
Western Australia

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Table of Contents

Item No	Subject	Page
1.	Declaration of Opening by the Mayor	1
2.	Record of Attendance, Apologies and Leave of Absence.....	1
3.	Responses to Public Questions Taken 'On Notice' at the Previous Council Meeting	2
4.	Public Question Time	2
5.	Questions on Notice from Council Members (No Discussion Permitted)	4
6.	Confirmation of Previous Minutes	5
7.	Disclosures of Interest under the Local Government Act 1995.....	5
8.	Announcements by the Mayor (No Discussion Permitted).....	6
9.	Chief Executive Officer Reports/Discussion Topics	7
9.1	2010/11 Annual Performance Appraisal - Chief Executive Officer (<i>was listed as item 9.1 on the meeting agenda</i>)	7
9.2	Art Gallery Upgrade Project (<i>was not previously listed as an item on the meeting agenda</i>)	8
10.	Reception of Formal Petitions and Memorials	8
11.	Reception of Reports and Recommendations from the Council (Standing) Committee Meeting held 20 April 2010.....	9
11.1	Request for Leave of Absence – Councillor Derek Spencer (<i>was listed as item 11.1 on the meeting agenda</i>)	9
11.2	Advertising Devices Application 121 King Road Bunbury (<i>was listed as item 11.4 on the meeting agenda</i>).....	11
11.3	Tender: RFT 2009 2010-19 - Broad Acre Lawn Mowing (<i>was listed as item 11.6 on the meeting agenda</i>).....	18
11.4	Instrument of Authorisation for Traffic Management for Works and Events (<i>was listed as item 11.7 on the meeting agenda</i>)	23
11.5	Koombana Bay Beach Kiosk – Expressions of Interest (<i>was listed as item 11.9 on the meeting agenda</i>).....	27
11.6	Proposed Sale – Lot 61 on Plan 7362 Corner Sandridge and Picton Roads, Bunbury (<i>was listed as item 11.10 on the meeting agenda</i>)	31

Table of Contents

Item No	Subject	Page
11.7	Report on Strategic Activities for Period Ended 31 March 2010 <i>(was listed as item 11.12 on the meeting agenda)</i>	35
11.8	Proposed Inclusion of Bunbury Council Chambers on State Register of Heritage Places <i>(was listed as item 11.13 on the meeting agenda)</i>	37
11.9	Financial Statements - March 2010 <i>(was listed as item 11.15 on the meeting agenda)</i>	42
11.10	Advisory Committee and/or Project Control Group Minutes to be Noted at the Council Committee Meeting <i>(was listed as item 11.16 on the meeting agenda)</i>	44
11.11	Items to be Noted (No Discussion) at the Council Committee Meeting <i>(was listed as item 11.18 on the meeting agenda)</i>	46
11.12	Ex-Tensions Restaurant – Application to Support Section 40 Application <i>(was listed as item 11.2 on the meeting agenda)</i>	48
11.13	Bunbury Museum Feasibility Study <i>(was listed as item 11.3 on the meeting agenda)</i>	59
11.14	Proposed Three Storey Office Development – Lot: 2 and Lot: 3 (No. 3) Hales Street, Davenport <i>(was listed as item 11.15 on the meeting agenda)</i>	67
11.15	Policy Review and Development (Standing) Committee Recommendations to Council <i>(was listed as item 11.8 on the meeting agenda)</i>	77
11.16	Motion on Notice – Free Parking for Bunbury Regional Entertainment Centre Volunteers <i>(was listed as item 11.17 on the meeting agenda)</i>	81
11.17	Attendance at (and Appointment of Voting Delegates to) Local Government Convention 2010 and Annual General Meeting of the Western Australian Local Government Association <i>(was listed as item 11.11 on the meeting agenda)</i>	87
11.18	Closure of Advertising for Scheme Amendment No. 39, Picton Agricultural Hall – Change from “Industry Zone” to “Public Purposes Reserve” <i>(was listed as item 11.14 on the meeting agenda)</i>	91
12.	Motions on Notice	101
12.1	Motion on Notice – Outer Harbour Taskforce <i>(was listed as item 12.1 on the meeting agenda)</i>	101

Table of Contents

Item No	Subject	Page
13.	Urgent Business (<i>With Approval of Majority of Members Present as Permitted Under Standing Order 5.1.13</i>)	104
14.	Items to be Noted or Endorsed	104
15.	Confidential Business as Stipulated Under Section 5.23(2) of the Local Government Act 1995	104
15.1	2010/11 Annual Performance Appraisal - Chief Executive Officer (<i>was listed as item 9.1 on the meeting agenda</i>)	104
16.	Close of Meeting	105

GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
1:100	Ratio of 'one in one hundred'
AD	Acceptable Development
ARI	Annual Recurrence Interval
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AWARE	All West Australians Reducing Emergencies (grant funding)
BCA	Building Code of Australia
BCCI	Bunbury Chamber of Commerce & Industries
BCRAB	Bunbury Community Recreation Association Board
BEAC	Built Environment Advisory Committee
BESAC	Bunbury Environment and Sustainability Advisory Committee
BHRC	Bunbury Harvey Regional Council
BPA	Bunbury Port Authority
BRAG	Bunbury Regional Art Galleries
BRAMB	Bunbury Regional Arts Management Board
BREC	Bunbury Regional Entertainment Centre
BSSC	Big Swamp Steering Committee
BWEA	Bunbury Wellington Economic Alliance
CALM	Department of Conservation and Land Management
CBD	Central Business District
CCAFF	Community Cultural and Arts Facilities Fund
CERM	Centre of Environmental and Recreation Management
CPI	Consumer Price Index
CSRFF	Community Sport and Recreation Facilities Fund
DADAAWA	Disability in the Arts Disadvantage in the Arts Australia, Western Australia
DAP	Detailed Area Plan (required by WA Planning Commission)
DCU	Development Coordinating Unit
DEC	Department of Environment and Conservation (formerly CALM)
DEWCP	Department for Environment, Water and Catchment Protection
DLI	Department of Land Information
DoE	Department of Environment
DOLA	Department of Land Administration
DoPI	Department of Primary Industry
DoW	Department of Water
DPI	Department for Planning and Infrastructure
DSR	Department of Sport and Recreation
DUP	Dual-use Path
ECT	Enforcement Computer Technology
EDAC	Economic Development Advisory Committee
EDWA	Education Department of Western Australia
EIA	Environmental Impact Assessment
EPA	Environmental Protection Authority
ERMP	Environmental Review and Management Program
ESL	Emergency Services Levy
FESA	Fire and Emergency Services Authority
FFL	Finished Floor Level
GBPG	Greater Bunbury Progress Group
GBRP	Greater Bunbury Resource Plan report
GBRS	Greater Bunbury Region Scheme
GL	Gigalitres
GRV	Gross Rental Value
GST	Goods and Services Tax
HCWA	Heritage Council of Western Australia
ICLEI	International Council for Local Environmental Initiatives
ICT	Information and Communications Technology
IP	Internet Protocol
IT	Information Technology
ITC	In Town Centre
ITLC	Former In-Town Lunch Centre (now the "In Town Centre")
LAP	Local Action Plan
LCC	Leschenault Catchment Council

GLOSSARY OF ABBREVIATED TERMS

Term	Explanation
LEMC	Bunbury Local Emergency Management Committee
LIA	Light Industrial Area
LN (2000)	Liveable Neighbourhoods Policy (2000)
LSNA	Local Significant Natural Area
MHDG	Marlston Hill Design Guidelines
MRWA	Main Roads Western Australia
NDMP	National Disaster Mitigation Program
NEEDAC	Noongar Employment & Enterprise Development Aboriginal Corp.
NRM	Natural Resource Management
NRMO	Natural Resource Management Officer
ODP	Outline Development Plan
PAW	Public Access Way
PHCC	Peel-Harvey Catchment Council
PR	Plot Ratio
R-IC	Residential Inner City (Housing) - special density provisions
RDC	Residential Design Codes
RDG	Residential Design Guidelines
Residential R15	Town Planning Zone – up to 15 residential dwellings per hectare
Residential R20	Town Planning Zone – up to 20 residential dwellings per hectare
Residential R40	Town Planning Zone – up to 40 residential dwellings per hectare
Residential R60	Town Planning Zone – up to 60 residential dwellings per hectare
RFDS	Royal Flying Doctor Service
RMFFL	Recommended Minimum Finished Floor Levels
ROS	Regional Open Space
ROW	Right-of-Way
RSL	Returned Services League
SBCC	South Bunbury Cricket Club Inc.
SCADA	Supervisory Control and Data Acquisition
SGDC	Sportsgrounds Development Committee
SW	South West
SWACC	South Western Area Consultative Committee
SWAMS	South West Aboriginal Medical Service
SWBP	South West Biodiversity Project
SWCC	South West Catchments Council
SWDC	South West Development Commission
SWDRP	South West Dolphin Research Program
SWEL	South West Electronic Library
SWSC	South West Sports Centre
TME	Thompson McRobert Edgeloe
TPS	Town Planning Scheme
USBA	Union Bank of Switzerland Australia
VGO	Valuer General's Office
VOIP	Voice-Over Internet Protocol
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WAPRES	Western Australian Plantation Resources
WAWA	Water Authority of Western Australia
WC	Water Corporation
WML	WML Consultants
WRC	Waters and Rivers Commission

Bunbury City Council

Minutes of an Ordinary Meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 27 April 2010.

Minutes 27 April 2010

NOTE: These minutes are subject to confirmation at the next ordinary meeting of the Council 18 May 2010.

1. Declaration of Opening by the Mayor

His Worship the Mayor, Mr David Smith, declared the meeting open at 6.03pm.

2. Record of Attendance, Apologies and Leave of Absence

PRESENT

Council Committee Members	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor B Kelly
Members:	Councillor J Jones
	Councillor S Craddock
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck
	Councillor A Leigh
	Councillor J Harrop
	Councillor K Steele
Executive Management Team (Non-Voting)	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager Corporate Services:	Mr K Weary
Executive Manager City Services:	Mr M Scott
Executive Manager City Development:	Mr G Klem
Executive Manager City Life:	Ms J Massey (Acting for Mr D Marzano)
Council Officers (Non-Voting):	
Cultural Development Officer	Ms J Dunn
Admin. Officer Corporate Services	Ms M Lloyd
Admin. Officer Corporate Services	Ms D Ryan

Others (Non-Voting):	
Members of the Public:	25 (approx.)
Members of the Press:	1 (arrived 6.57pm)

APOLOGIES:

Cr Major was an apology.

LEAVE OF ABSENCE:

Cr Derek Spencer on leave of absence from 20 April 2010 to 27 April 2010 (inclusive).

3. Responses to Public Questions Taken 'On Notice' at the Previous Council Meeting

Nil

4. Public Question Time

Mr Bernard Bischoff, 15 Forster Street, Bunbury

Question: At the Committee meeting 20 April 2010, the comments that I made in relation to the Bunbury Museum item were either misunderstood or not correctly reflected in the minutes of the meeting. Can I hand the Council a letter outlining the points that I made?

Response: (His Worship the Mayor) as we don't have a Hansard service at Council, we have to rely on the accuracy of our staff and if they have any queries they go to the actual tape of the proceedings. The minutes need to reflect what was actually said not what you intended to say. If you wish to provide me with a copy of the document that you have before you, I am happy to have it incorporated into the minutes of this meeting.

A copy of Mr Bischoff's comments are **attached** to these minutes at appendix 11.

Mr Stefan Whiteside, Proprietor Bunbury Dance Studio

Question: (In relation to the Bunbury Museum) an invitation was extended to Councillors to visit the Paisley Centre to see what there is there in order for them to make an informed decision. Only two (2) Councillors availed themselves of the invitation. How can you make an informed decision if you don't have all the information?

Response: (His Worship the Mayor) an external consultant was engaged to prepare a report on the question of a local museum. He was directed in particular to two sites, King Cottage and the Paisley Centre. He seems to have focussed on those in the report. Councillors are fairly familiar with the Paisley Centre and they certainly have the benefit of reading the correspondence from you on the issue. It's not possible always to have the Councillors to visit and view sites on invitation. There is an obligation to all of us to try and get as much information as we can when we come to consider matters, but there are no laws or guides that direct Councillors on how to do that. All Councillors undertake training sessions. I believe all Councillors honestly try to fulfil the duties that they have when making decisions. One needs to bear in mind that the agendas are quite long and there are an array of issues in relation to it. As I understand that the decision from last week was actually made not to confirm the Paisley Centre at this stage. Those Councillors who support that decision may not have seen the need to attend. Beyond that I can't go any further.

Ms Kim Clayton, Busselton

Question: *(In relation to the Bunbury Museum) on page four (4) of the consultants feasibility report under the heading Inventory and Analysis, it says that the City has only identified two (2) sites as potential locations however I was wondering if this report is providing a real framework on which to test the function of a museum. Why were the Paisley Centre and the King Cottage the only two sites considered for the location of the Bunbury Museum?*

Response: (His Worship the Mayor) the brief was prepared for Council's City Life program. There were at least two (2) public forums.
(Acting Executive Manager City Life) there were two public forums. The brief was prepared by City Life in conjunction with discussions with some members of council and there were two (2) public forums to discuss what the members of the public felt about the best site and about whether a public museum was feasible.

Ms Annette Whitelaw, Leschenault

Question: *Can you confirm you decided not to go ahead with the Paisley Centre as the site of the Bunbury Museum?*

Response: (His Worship the Mayor) at the Committee meeting (20 April 2010), the Committee did not confirm the Paisley Centre. Part three (3) of the recommendation was lost however later in the motion they left in the cost of the design work required for the Paisley Centre. No doubt we will get some clarification on that as the night goes on.

Question: *Why wasn't that information passed onto Mr Whiteside as a proprietor of the Paisley Centre in order to save him unnecessary heartache?*

Response: (His Worship the Mayor) Mr Whiteside was present during the debate at the Committee meeting (20 April 2010). The minutes of the meeting are available on our website and would have reflected that. The final thing that I need to say is that it is a Committee recommendation those Committee recommendations come to this meeting and the final decision will be made tonight.

Question: *Is Council aware that the carpark around the Paisley Centre does not belong to the Paisley Centre. It belongs to the shopping centre (Centrepont) and that it is only one (1) hour parking which is strictly patrolled and carries hefty fines of \$30?*

Response: (His Worship the Mayor) I am sure that we are aware of that.

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

Cr Jones submitted the following question (in writing) prior to the close of the meeting agenda. A response has been provided by the Manager Community Law and Safety:

Question 1: *On which date did Bunbury City Council assume responsibility for the management of the parking at the site known as the Old St John's Hospital?*

Response: Council does not manage the parking at the old St John's site.

Question 2: *How much income has Bunbury City Council derived from the parking arrangements at that site?*

Response: Nil.

Question 3: *Has all income derived from the parking arrangements been allocated to the City's parking reserve?*

Response: Council does not manage the parking at the old St John's site.

Question 4: *If not, how and where have the funds been allocated or spent?*

Response: Council does not manage the parking at the old St John's site.

6. Confirmation of Previous Minutes

The minutes of the Council Meeting held 23 March 2010, have been circulated.

Recommendation

The minutes of the Council Meeting held 23 March 2010, be confirmed as a true and accurate record.

Outcome - Council Meeting 27 April 2010

A motion to confirm the minutes was moved Cr Leigh, seconded Deputy Mayor Cr Kelly and adopted to become the Council's decision.

Council Decision 55/10

The minutes of the Council Meeting held 23 March 2010, 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

Cr Jones disclosed a proximity interest in the item titled '*Proposed Three Storey Office Development – Lot 2 and 3 (No. 3) Hales Street, Davenport*' as she is the Chairperson of the Bunbury Cemetery Board (adjoining business). She believes that her interest is trivial in nature and would like to stay, participate in the discussion and vote on the matter. The Mayor put to the vote that Cr Jones be allowed to stay, participate and vote – 10 votes "for" / Nil votes "against"

Cr Leigh disclosed an interest in the item titled '*Motion on Notice – Free Parking for Bunbury Regional Entertainment Centre Volunteers*' as he and his wife Linda are members of the BREC Club and volunteer their services on occasion. He believes that his interest is trivial in nature and would like to stay, participate in the discussion and vote on the matter. The Mayor put to the vote that Cr Leigh be allowed to stay participate and vote – 10 votes "for" / Nil votes "against"

Cr Harrop disclosed an impartiality interest in the item titled '*Koombana Bay Beach Kiosk - Expressions of Interest*' as she is friends with one of the lease applicants. She was asked to give further explanation. She stated that she has enjoyed a meal with one of the applicants, the Ghasseb family. She believes that her interest to be trivial and would like to stay, participate in the discussion and vote on the matter. She was asked if she intended to nominate for the selection panel, to which she replied that she is not. The Mayor put to the vote that Cr Harrop be allowed to stay, participate and vote – 10 votes "for" / Nil votes "against".

Cr Harrop disclosed an impartiality interest in the item titled '*Bunbury Museum Feasibility Study*' as she is a member of the King Cottage and volunteer her services.

She believes that her interest is trivial in nature and would like to stay, participate in discussion and vote on the matter. The Mayor put to the vote that Cr Harrop be allowed to stay, participate and vote – 10 votes “for” / Nil votes “against”.

Cr Steck disclosed a financial interest in the item titled *‘Proposed Sale – Lot 61 on Plan 7362 Corner Sandridge and Picton Roads, Bunbury’* in accordance with 5.62(e) of the Local Government Act 1995 as she is the defacto of the proponent. She will leave the chambers and not participate in the discussion or vote on the matter.

8. Announcements by the Mayor (No Discussion Permitted)

Nil

9. Chief Executive Officer Reports/Discussion Topics

9.1 2010/11 Annual Performance Appraisal - Chief Executive Officer *(was listed as item 9.1 on the meeting agenda)*

File Ref:	A01984
Applicant/Proponent:	Local Government Act requirement
Author:	Greg Trevaskis- Chief Executive Officer
Executive:	Greg Trevaskis- Chief Executive Officer

In accordance with Section 5.38, Local Government Act 1995 Council is required to undertake a performance review of the Chief Executive Officer (CEO) every year. The CEO's employment contract also requires the review to be carried out between May and July of each year.

To assist in this task Council is requested to appoint a Performance Review Panel to undertake the review with the assistance of a mutually agreed facilitator and report back to Council.

The 2009/10 CEO Performance Review Panel consisted of His Worship the Mayor, Deputy Mayor Councillor Brendan Kelly (Panel Chairman) and Councillor Helen Punch .

Recommendation

1. That the CEO Performance Review Panel for 2010/11 consists of:-
 - 1.1 His Worship the Mayor, Mr. D. Smith
 - 1.2 Deputy Mayor, Mr. B. Kelly
 - 1.3 Cr H. Punch
 - 1.4 Cr. _____ (to be nominated by the CEO)
2. The 2010/11 CEO Performance Review Report be finalised no later than 31 August 2010.

Outcome - Council Meeting 27 April 2010

Cr Craddock moved, Cr Leigh seconded that this item be deferred to be considered under Confidential Business later in the agenda (Section 15) as per the Local Government Act 1995, section 5.23(2)(a).

The Mayor put this to the vote and was CARRIED 10 votes "for" / 1 vote "against".

9.2 Art Gallery Upgrade Project *(was not previously listed as an item on the meeting agenda)*

File Ref:	A03504
Applicant/Proponent:	Internal Report
Author:	Stewart Parkinson, Project Manager
Executive:	Dom Marzano, Executive Manager City Life

The Chief Executive Officer advised the meeting that:-

- Quotations for the proposed upgrade of the Bunbury Regional Art Gallery had been received in-line with Council's requirements and available budget.
- The revised design has been generally endorsed by the stakeholder reference group.
- A copy of the report on this matter has been issued to all Councillors for their information
- It is proposed to convene a Special Meeting of Council to be held around the same time and date of next weeks briefing session with Councillors (4 May 2010).
- Time is of the essence to award a contract for this project to comply with Government funding requirements.

Cr Craddock moved, Cr Steele seconded that a "Special Meeting of Council" be convened on 4 May 2010 (at a time to be determined) to consider the Art Gallery Upgrade Project.

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

Council Decision 76/10

That a "Special Meeting of Council" be convened on 4 May 2010 (at a time to be determined) to consider the Art Gallery Upgrade Project.

CARRIED
10 Votes "For" / 1 Vote "Against"

10. Reception of Formal Petitions and Memorials

Nil

11. Reception of Reports and Recommendations from the Council (Standing) Committee Meeting held 20 April 2010

Pursuant to Standing Order 16.1.1, the Council adopted 'en bloc' (i.e. without discussion) those recommendations listed for items 11.1, 11.4, 11.6, 11.7, 11.9, 11.10, 11.12, 11.13, 11.15, 11.16 and 11.18 of the meeting agenda.

Items 11.2, 11.3, 11.5, 11.8, 11.11, 11.14 and 11.17 of the meeting agenda was then discussed and voted on separately.

Please note that the items listed in this section of the meeting minutes have been rearranged (and re-numbered) so that they appear in the order that they were discussed at the meeting. The items voted on 'en bloc' are listed first.

11.1 Request for Leave of Absence – Councillor Derek Spencer *(was listed as item 11.1 on the meeting agenda)*

File Ref:	A00215
Applicant/Proponent:	Councillor Derek Spencer
Author:	Greg Trevaskis, Chief Executive Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary/Background

Councillor Derek Spencer requests leave of absence from all Council-related business on 20 April & 27 April 2010.

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 Derek Spencer is granted leave of absence from all Council-related business on 20 April & 27 April 2010.

Outcome - Council Committee Meeting 20 April 2010

This item was dealt with during section 2 (Attendance and Apologies) at which time Cr Major had not arrived and was not present for the vote.

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Derek Spencer is granted leave of absence from all Council-related business on 20 April & 27 April 2010.

Outcome - Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 56/10

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Derek Spencer is granted leave of absence from all Council-related business on 20 April & 27 April 2010.

CARRIED
11 Votes "For" / Nil Votes "Against"

11.2 Advertising Devices Application 121 King Road Bunbury *(was listed as item 11.4 on the meeting agenda)*

File Ref:	A02034-32 -/- 571972
Applicant/Proponent:	Paramount Outdoor C/- Greg Rowe & Associates 121 King Road, Bunbury
Author:	Warren Troy, Development Services Technical Officer
Executive:	Geoff Klem, Executive Manager City Development

Summary

On 29 March 2010, the City received a revised application to display a large billboard sign on vacant residential land at 121 King Road Bunbury, which was submitted on behalf of the landowner by Greg Rowe & Associates. (Refer Application **attached** at Appendix 7) The proposal is to erect a single billboard sign that will incorporate the display of community advertising. Although the City has delegated authority to determine the aforementioned application, it has been referred to Council for determination due to a known history of strong opposition from adjoining landowners.

Background

The application currently before Council has been revised from a previous application for a similar scenario, which was refused by the City and is currently subject to a right of appeal. The Applicant's previous application of 7 December 2009 was for a licence to display two large billboard signs, which was subsequently refused on 17 December 2009, as it did not accord with the provisions of the Advertising Devices Policy ("ADP"). The City's grounds for refusal were in relation to size, the number of billboards and the inclusion of commercial third party advertising.

The Applicant has requested that the determination to refuse the prior application of 7 December 2009 be reviewed by the Advertisements Appeal Committee ("AAC") as prescribed under 6.6(b) of the ADP. As the AAC is yet to be established, as a substitute, the matter was previously listed as an item for full Council determination however, the Applicant has subsequently requested that their right to appeal be put on hold pending the outcome of the newly revised application which is the subject of this report.

Whilst the new application falls generally within the ADP provisions, which could enable the City to issue approval under delegated authority, the City has referred the determination of the new application to Council due to additional objections from the public which were tabled by Cr Leigh at Council's Committee Meeting of 16 March 2010 in respect of the Applicant's previous billboard application and subsequent appeal.

At Council's Committee meeting of 16 March 2010, the Committee Recommendation on the matter was as follows:

Pursuant to clause 9.4 of the City of Bunbury Standing Orders, the petition and letter from the Residents of Forum Way and King Road (re Lot 100

Sandridge / King Road billboards) be accepted and a report be prepared by Officers for the information of Council on this issue.

At Council's meeting of 23 March 2010, the recommendation was made to become Council's decision on the matter. Accordingly, this report is also intended to inform Council in order to satisfy its decision of 23 March 2010.

Proposal

The application to display an advertising device, namely a large billboard sign, which was received by the City on 29 March 2010, has been issued *Assessment Number 4.2010.6.1* and has been assessed against the provisions of the ADP. The only discrepancies between the proposal and the ADP provisions for a large billboard sign are as follows-

- The ADP states in part that, *'the sign area for a large billboard sign shall be no greater than 36m² per side, for a maximum of two sides'*, whereas the proposed large billboard sign has approximately 42m² of display area for one side only.
- The ADP states in part that, *'...third party signage that advertises a product not produced or a service not provided on the site on which the advertisement is located is considered inappropriate and contrary to the objectives of this Policy. An application for any advertisements of this type will be refused'*. Development Services is supportive of the proposed third party signage as it does not include commercial advertising but instead, is proposed to promote a community based message or advertising.

Strategic and/or Regional Outcomes

There are no known comparative strategic or regional issues.

Community Consultation

Although there is no legislative requirement for community consultation in this case, the City notes that the Applicant has consulted directly with adjoining landowners, both prior to, and after once being informed of their adverse comment in relation to the proposed project. The City has also provided feedback to the petitioner in relation to the newly revised proposal which is the subject of this report. The petitioner has advised the City that they have perused the revised large billboard proposal currently before Council for determination and have advised that they no longer have any objection in relation to the matter.

Councillor/Officer Consultation

A meeting was held between a Technical Officer, the Senior Manager Development Services, the landowner and his representative in order to discuss the potential of revising the billboard sign proposal in order to meet the provisions of the ADP. There has also been ongoing communication between the landowner's agent and the City's Technical Officer with regard to technical aspects of the application.

Analysis of Financial and Budget Implications

Not considered applicable

Life-cycle Maintenance Costs (Capital Works Projects Only)

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

Economic, Social, Environmental and Heritage Issues

The Applicant has proposed to restrict any future billboard advertising to that of community based advertisements and messages.

Council Policy Compliance

With the exception of containing 'third party advertising', the proposed billboard signage is generally in accordance with the provisions of the Advertising Devices Policy.

Legislative Compliance

The City of Bunbury, Local Law Relating to Advertising Devices, 2.3(i), *Prohibited or Restricted Signs*, states that –

A person shall not erect, maintain or display a sign – on land that is used for residential purposes unless exempted from this policy.

The City of Bunbury, Advertising Devices Policy, Appendix A illustrates that a billboard sign in a residential environment falls within the category of an Impact Assessable sign which requires the discretion of the City of Bunbury.

Delegation of Authority

Although the City has delegated authority to determine the application currently before Council, the City has referred the determination of the new application to Council due to the additional objections from the public, which were tabled by Cr Leigh at Council's Committee Meeting of 16 March 2010 in respect of the Applicant's previous billboard application and appeal.

Relevant Precedents

There is currently a single large billboard sign located on lot 71 Bunning Boulevard which is within close proximity of the proposed King Road signage. The existing precedent has a significant history insofar as the billboard hoarding was issued a valid licence on 2 April 1985. The City's records indicate that the "third party" commercial advertising currently being displayed from the subject billboard sign was erected prior to the adoption of the ADP and is therefore considered lawful.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council determine to refuse the Application for a licence to erect and display a large billboard sign.

Conclusion

The Executive recommendation is that Council determine to approve the application to display an advertising device with conditions. Whilst the City had determined to refuse the previous large billboard application, Development Services is supportive of the revised application as it is generally in accordance with the Advertising Devices Policy and is not intended to display commercial advertising.

Recommendation

1. Council determine to approve the attached billboard application with the following conditions:
 - 1.1. This approval is valid for a period of two years from the date of issue or within any extended period for which Council has granted written consent. An application for such consent shall be received within one month prior to the expiration of this approval.
 - 1.2. Any notations marked in red pen on the drawings are considered to be a condition of this approval.
 - 1.3. The advertising device is to be located in accordance with the approved plans. There shall be no deviation from the approved plans without prior written approval from the City of Bunbury.
 - 1.4. The advertising device shall not be illuminated without prior written approval from the City of Bunbury.
 - 1.5. The advertising device shall be professionally made and kept clean and maintained free of dilapidation, vandalism and graffiti at all times.
 - 1.6. Any alteration to the sign without the prior written consent of the City of Bunbury shall render this licence void. In such an event the sign will be subject to a new licence.
 - 1.7. The advertising device shall clearly and legibly bear on its face/s the number of the licence under which it is erected or displayed.
 - 1.8. This licence is subject to the requirement of a detailed landscaping plan which shall be submitted to and approved by the City of Bunbury, prior to the commencement of any works or display of advertising

being the subject of this licence. The landscaping plan is to include the following:

- the location, species and size of existing vegetation
- details of any significant existing vegetation to be removed
- exact location and number of species proposed
- mature height of any proposed trees
- a key or legend detailing species type grouped under the subheadings of tree, shrub and ground cover.
- mulching or similar treatments of garden beds including edges
- contours including any alteration in natural ground levels
- details of reticulation of landscaped areas including the source of water supply and proposed responsibility of maintenance.

2. Council determine to apply any additional condition as it sees fit

Outcome - Council Committee Meeting 20 April 2010

At this point (9.25pm) in proceedings Deputy Mayor Cr Kelly and Cr Steck returned to the chambers and participated in the discussion and vote.

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

Ben Carter, Greg Rowe and Associates and Charles Maasdorp, land owner, addressed the Committee and were available to answer any questions the Councillors may have. The billboards were for the Office of Road Safety to send messages to drivers for an initial period of twelve (12) months with a possible twelve (12) month extension. This billboard application is solely for the Road Safety and if other organisations would like to use it, then another application will be made. They have addressed the concerns of the local residents. The Office of Road Safety have no existing public service signs in the Bunbury area. They are willing to keep it as a public service billboard and any changes will need to come back to Council.

There were some concerns as to the size and whether they would be distraction to drivers. The billboards have short simple messages (i.e. drop 5, save lives) and are big enough for the driver to glance at and read rather than having to squint to read.

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

1. Council determine to approve the attached billboard application with the following conditions:
 - 1.1. This approval is valid for a period of two years from the date of issue or within any extended period for which Council has granted written consent. An application for such consent shall be received within one month prior to the expiration of this approval.
 - 1.2. Any notations marked in red pen on the drawings are considered to

be a condition of this approval.

- 1.3. The advertising device is to be located in accordance with the approved plans. There shall be no deviation from the approved plans without prior written approval from the City of Bunbury.
- 1.4. The advertising device shall not be illuminated without prior written approval from the City of Bunbury.
- 1.5. The advertising device shall be professionally made and kept clean and maintained free of dilapidation, vandalism and graffiti at all times.
- 1.6. Any alteration to the sign without the prior written consent of the City of Bunbury shall render this licence void. In such an event the sign will be subject to a new licence.
- 1.7. The advertising device shall clearly and legibly bear on its face/s the number of the licence under which it is erected or displayed.
- 1.8. This licence is subject to the requirement of a detailed landscaping plan which shall be submitted to and approved by the City of Bunbury, prior to the commencement of any works or display of advertising being the subject of this licence. The landscaping plan is to include the following:
 - the location, species and size of existing vegetation
 - details of any significant existing vegetation to be removed
 - exact location and number of species proposed
 - mature height of any proposed trees
 - a key or legend detailing species type grouped under the subheadings of tree, shrub and ground cover.
 - mulching or similar treatments of garden beds including edges
 - contours including any alteration in natural ground levels
 - details of reticulation of landscaped areas including the source of water supply and proposed responsibility of maintenance.

2. Council determine to apply any additional condition as it sees fit

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 57/10

1. *Council determine to approve the attached billboard application with the following conditions:*
 - 1.1. *This approval is valid for a period of two years from the date of issue or within any extended period for which Council has granted written consent. An application for such consent shall be received within one month prior to the expiration of this approval.*
 - 1.2. *Any notations marked in red pen on the drawings are considered to be a condition of this approval.*

- 1.3. *The advertising device is to be located in accordance with the approved plans. There shall be no deviation from the approved plans without prior written approval from the City of Bunbury.*
- 1.4. *The advertising device shall not be illuminated without prior written approval from the City of Bunbury.*
- 1.5. *The advertising device shall be professionally made and kept clean and maintained free of dilapidation, vandalism and graffiti at all times.*
- 1.6. *Any alteration to the sign without the prior written consent of the City of Bunbury shall render this licence void. In such an event the sign will be subject to a new licence.*
- 1.7. *The advertising device shall clearly and legibly bear on its face/s the number of the licence under which it is erected or displayed.*
- 1.8. *This licence is subject to the requirement of a detailed landscaping plan which shall be submitted to and approved by the City of Bunbury, prior to the commencement of any works or display of advertising being the subject of this licence. The landscaping plan is to include the following:*
 - *the location, species and size of existing vegetation*
 - *details of any significant existing vegetation to be removed*
 - *exact location and number of species proposed*
 - *mature height of any proposed trees*
 - *a key or legend detailing species type grouped under the subheadings of tree, shrub and ground cover.*
 - *mulching or similar treatments of garden beds including edges*
 - *contours including any alteration in natural ground levels*
 - *details of reticulation of landscaped areas including the source of water supply and proposed responsibility of maintenance.*

2. *Council determine to apply any additional condition as it sees fit*

CARRIED
11 Votes "For" / Nil Votes "Against"

11.3 Tender: RFT 2009 2010-19 - Broad Acre Lawn Mowing (was listed as item 11.6 on the meeting agenda)

File Ref:	A03960
Applicant/Proponent:	Internal Report
Author:	Mark Robson, Contract Co-ordinator
Executive:	Michael Scott, Executive Manager City Services

Summary

The City has invited suitably qualified companies to tender for the Broad Acre Lawn Mowing contract.

Background

Tenders were prepared and advertised in *The West Australian* and the *South Western Times* on 30 January and 4 February 2010. The tender was for the provision of broad acre lawn mowing services to selected areas and reserves within the City of Bunbury as follows:

- Hands Oval
- Payne Park
- Forrest Park
- Kelly Park (Football Ground)
- Recreation Ground
- Hay Park
- Queens Gardens/Frank Buswell Foreshore
- Withers Area Landscaping
- Lot 8 Koombana Drive

In House Tender

As the City's Parks and Gardens Co-ordinator expressed an interest in submitting an in-house bid for this tender, it was decided that the tender opening, tender evaluation process and recommendation report would be managed by an independent source. The Western Australian Local Government Association ("WALGA") Procurement Consultancy Service was engaged to provide this service.

Tenders closed at 3.00pm on Wednesday, 3 March 2010 at the WALGA office located at 15 Altona Street, West Perth and were opened in accordance with the "Conditions of Tendering" by the representatives of the WALGA Procurement Consultancy Service.

A total of seventeen (17) interested companies requested and received the tender documentation with six (6) responses being received at closing from:

Tenderer	Address
City of Bunbury (Parks & Gardens)	PO Box 21, Bunbury WA 6231
Lochness landscape Services	13 Savery Way, Rockingham WA

Overacre Mowing	24 Parkfield Way, Australind WA
Perfect landscapes	Po Box 1405 Bunbury, WA 6231
State Wide Turf Services	60 Buttercup Cres High Wycombe WA 6057
Sussex Group Pty Ltd	30 Wright St, Busselton WA

Term of Contract

The contract shall be in force for a period of 12 months with an option to extend for a further 24 months and is at the sole discretion of the Principal and subject to the performance of the contractor.

Evaluation

An evaluation panel from the WALGA Procurement Consultancy Service assessed each submission. Members of the panel were:

- Craig Grant, Procurement Consultant,
- Cheryl Dogru, Procurement Consultant
- Geoff Alcock, Procurement Consultant

Compliance Criteria

Tenders were evaluated using the following compliance criteria:

- (a) Compliance with the Conditions of Tendering.
- (b) Completion of the Tender Offer.
- (c) Completion of the Price Schedule.
- (d) Corporate Information.
- (e) Financial Position.
- (f) Conflict of Interest
- (g) Appropriate Insurances.
- (h) Safety Requirements.

Qualitative Criteria

Description of Qualitative Criteria		Weighting
(a)	Organisational Capacity and Experiences	5
(b)	Skills and experience of key personnel	5
(c)	Contractors Performance	5
(d)	Corporate Social Responsibility	2

Price

As per the WALGA Procurement Consultancy Services recommendations, details of the tendered prices and ranking are considered 'commercial-in-confidence and these have been provided to members as a Confidential Report issued **under separate cover**.

Strategic and/or Regional Outcomes

Acceptance of the recommendation is consistent with the City of Bunbury Strategic Plan 2007-2012 as it will facilitate *"the provision of a wide range of actives and*

passive recreational opportunities for the benefit and well being of the whole community."

Community Consultation

The Broad Acre Lawn Mowing Tender was advertised for public information in accordance with the Local Government Act 1995. Community consultation was not required to be carried out during the process.

Councillor/Officer Consultation

Tender specifications were developed in consultation with operational staff involved in Parks Management and Mowing. These specifications were also independently reviewed by WALGA Procurement Consultancy Service. The City's Manager of Building Construction & Maintenance and Contract Coordinator were also involved in the development process.

Analysis of Financial and Budget Implications

There are no financial implications as budget allocations for the provision of board acre mowing throughout the City is included in each year's annual budget.

Council's total budget on reserve maintenance for 2009/2010 is \$2.6M of which \$151K (incl. GST) is for contract mowing.

The City of Bunbury Parks & Gardens has been caretaking this broad acre mowing contract since the beginning of December 2009 and has hired from T-Quip, Belmont the additional equipment necessary. Should Parks & Gardens be awarded the contract, the purchase of equipment will be considered in the 2010/2011 Budget. The purchase of equipment forms part of the tender price.

Economic, Social, Environmental and Heritage Issues

Local purchasing will assist local businesses. No other economic, social, environmental or heritage issues need to be considered in considering the Tender process.

Council Policy Compliance

The tender process complied with the requirements of Work Procedure WP 4.12 – Tender Procedure, and associated legislation. The City's "Local Buying Compact" Policy CD2 has been applied but did not affect the outcome.

Legislative Compliance

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

Delegation of Authority

The total cost of the contract exceeds \$100,000 therefore this contract has been dealt with in accordance with the Local Government (Functions and General) Regulations 1996, Part 4 – Tenders for Providing Goods or Services i.e., it requires Council's approval.

Relevant Precedents

Council has previously considered and awarded maintenance contracts by tender including past Broad Acre Lawn Mowing Contracts.

Options

Option 1

In regard to Tender RFT 2009/2010-19 "Broad Acre Lawn Mowing" the Council resolves to accept the recommendations as stated in the report from WALGA's Procurement Consultancy Service.

Option 2

In regard to Tender RFT 2009/2010-19 "Broad Acre Lawn Mowing" the Council resolves to reject the recommendations as stated in the report from WALGA's Procurement Consultancy Service.

Conclusion- Basis of Recommendation

WALGA Procurement Consultancy Services evaluation panel considered tender submissions against the compliance criteria, qualitative criteria and a predetermined price structure as detailed in the publicly advertised Request for Tender.

In considering the qualitative criteria it was considered by the evaluation panel that both City of Bunbury and Perfect Landscapes demonstrated the ability to conduct the requirements of this Request for Tender.

An assessment of the best value for money was undertaken by determining the pricing structures and the qualitative score obtained. As a result of this assessment it was determined that City of Bunbury has provided the best value for money. The City of Bunbury also demonstrates a lower element of risk against Perfect Landscapes.

The Evaluation Panel believes that City of Bunbury has provided the most advantageous outcome to the City of Bunbury after considering the Compliance Criteria, Qualitative Criteria and pricing structures offered.

Recommendation

The Evaluation Panel recommends the appointment of City of Bunbury, ABN 61 002 948 455. City of Bunbury has provided the most advantageous Tender and best value for money to the City of Bunbury based on the assessment of the compliance criteria, qualitative criteria and pricing structures offered under RFT 2009/2010-19 – Broad Acre Lawn Mowing.

In regard to Tender RFT 2009/2010-19 "Broad Acre Lawn Mowing":

1. Council resolves to accept the tender submitted by the City of Bunbury (ABN 61 002 948 455)
2. Tender prices to be recorded in the Tender Register.

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

The Evaluation Panel recommends the appointment of City of Bunbury, ABN 61 002 948 455. City of Bunbury has provided the most advantageous Tender and best value for money to the City of Bunbury based on the assessment of the compliance criteria, qualitative criteria and pricing structures offered under RFT 2009/2010-19 – Broad Acre Lawn Mowing.

In regard to Tender RFT 2009/2010-19 "Broad Acre Lawn Mowing":

1. Council resolves to accept the tender submitted by the City of Bunbury (ABN 61 002 948 455)
2. Tender prices to be recorded in the Tender Register.

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 58/10

The Evaluation Panel recommends the appointment of City of Bunbury, ABN 61 002 948 455. City of Bunbury has provided the most advantageous Tender and best value for money to the City of Bunbury based on the assessment of the compliance criteria, qualitative criteria and pricing structures offered under RFT 2009/2010-19 – Broad Acre Lawn Mowing.

In regard to Tender RFT 2009/2010-19 "Broad Acre Lawn Mowing":

1. *Council resolves to accept the tender submitted by the City of Bunbury (ABN 61 002 948 455)*
2. *Tender prices to be recorded in the Tender Register.*

CARRIED
11 Votes "For" / Nil Votes "Against"

11.4 Instrument of Authorisation for Traffic Management for Works and Events *(was listed as item 11.7 on the meeting agenda)*

File Ref:	A00470-05
Applicant/Proponent:	Main Roads Western Australia
Author:	Jason Gick, City Engineer
Executive:	Michael Scott, Executive Manager City Services

Summary

On 21 January 2010 the City of Bunbury received correspondence from Main Roads Western Australia (MRWA) **attached** at Appendix 2 seeking agreement from the City to accept the Instrument of Authorisation for traffic management for Works and to accept the Instrument of Authorisation for traffic management for Events the MRWA.

Background

Main Roads Western Australia has separately written to the City inviting it to accept authority to approve traffic management for works and events.

Both Instruments of Authorisation relating to traffic management for Works and Events authorise the City to:

- a) At all times observe, perform and comply with the provisions of the "Traffic Management for Works on Roads Code of Practice"
- b) To develop and implement procedures that will satisfy the Commissioner of Main Roads that traffic management implemented comply with the Code
- c) Representatives to comply as if they were acting as the Authorised Body.

The instruments provide the City with authority to approve traffic management plans without reference to Main Roads for works or events on the local road network. Works or events on the state road network still require referral to Main Roads for approval.

Strategic and/or Regional Outcomes

This proposal contributes to the City's Strategic addressing the following Strategic Objectives:

Strategic Objective 1 – Improve the relationships with State, Federal and other local governments.

Strategic Objective 2 – Deliver major capital projects on time and on budget.

Community Consultation

This invitation and proposed response affects the operational aspects of Main Roads and the City, but do not affect the community at large. As such, no community consultation has been undertaken.

Councillor/Officer Consultation

The proposal can affect several departments within the City. A meeting was held with the Manager Community Law and Safety, the Events Scheduling Officer, Operations Works Coordinator, Parks Coordinator and the Engineering Technical Officer who typically responds to traffic management proposals.

The conclusion of that meeting was that the City needs to maintain the status of Authorised Body relating to Works, but should not accept the status of Authorised Body relating to Events.

Analysis of Financial and Budget Implications

Currently there are only a handful of officers with the authority to approve traffic management plans. The City needs to train more officers and this will incur some minor expenditure in 2010/11 from existing training budgets.

Declining to accept the authority to approve traffic management plans for Events will allow officers to prioritise work elsewhere

Economic, Social, Environmental and Heritage Issues

Maintaining authority to approve traffic management plans for Works ensures the City is meeting its OHS obligations for its workers and duty of care for other road users.

Council Policy Compliance

There is no Council policy applicable to this proposal.

Legislative Compliance

The Instruments of Authorisation for Works and Events are governed by Regulation 297(2) of the Road Traffic Code 2000.

Delegation of Authority

The Instrument of Authorisation for Works requires the Common Seal of the Council and the CEO's witnessed signature.

Relevant Precedents

The City has signed the Instrument of Authorisation for Works previously.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Agree to become an Authorised Body for Works and an Authorised Body for Events

Conclusion

The City is a direct beneficiary by being an Authorised Body for Works, but not by being an Authorised Body for Events.

Being an Authorised Body for Works allows the City to get on with its works program, to facilitate works by others and to ensure projects are not delayed by traffic management approvals.

Being an Authorised Body for Events is a burden to the few officers who have to undertake this task, particularly when events are undertaken for external parties, with limited benefit to the City.

In the future, subject to appropriate training and resourcing, there may be opportunity to review this position, but it is not feasible at this time.

Recommendation

Council endorse that:

1. The City accept the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Works on Roads' pursuant to Regulation 297(2) of the Road Traffic Code 2000.
2. The City decline the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Events' pursuant to Regulation 297(2) of the Road Traffic Code 2000.

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

It was requested that the votes be recorded as follows:

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

Committee Recommendation

Council endorse that:

1. The City accept the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Works on Roads' pursuant to Regulation 297(2) of the Road Traffic Code 2000.
2. The City decline the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Events' pursuant to Regulation 297(2) of the Road Traffic Code 2000.

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 59/10

Council endorse that:

1. *The City accept the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Works on Roads' pursuant to Regulation 297(2) of the Road Traffic Code 2000.*
2. *The City decline the invitation by the Commissioner of Main Roads for the City of Bunbury to become an Authorised Body through the 'Instrument of Authorisation Relating to Traffic Management for Events' pursuant to Regulation 297(2) of the Road Traffic Code 2000.*

CARRIED
10 Votes "For" / 1 Votes "Against"

It was requested that Cr Steck's vote against be recorded.

11.5 Koombana Bay Beach Kiosk – Expressions of Interest *(was listed as item 11.9 on the meeting agenda)*

File Ref:	F00077-02
Applicant/Proponent:	Internal Report
Author:	Ron Boardley, Senior Property Officer
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

This report relates to the seven (7) Expressions of Interest received for the operation of the Koombana Bay Beach Kiosk and recommends that Council appoint an “Interview Panel” consisting of up to 4 Councillors’ to interview the applicants and to make a recommendation to Council.

Background

At the Meeting held on 9 February 2010, Council resolved to invite “*expressions of interest from suitably qualified kiosk operators to lease the refurbished premises for a term of five (5) years*”.

The refurbishment of the kiosk is currently in progress and expected to be completed in approximately two weeks.

Following completion of the works, the applicants will be invited to inspect the premises and advise if they wish to proceed with their proposal.

Following advertising, seven (7) Expressions of Interest were received and these are detailed in the “Evaluation Report” **attached** at Appendix 3.

Strategic and/or Regional Outcomes

Strategic Outcome

The proposal complies with the City of Bunbury Strategic Plan 2007-2012 and in particular 2.4 which states that the City will “develop a Property Strategy that benefits the City’s residents, businesses and community/sporting organisations”.

Regional Outcome

Enhancement and operation of the premises will encourage both locals and visitors to use the premises and surrounds for a variety of aquatic sports and beach uses.

Community Consultation

The intention to enter into the proposed lease will be advertised in accordance with Section 3.58 of the Local Government Act 1995.

Councillor/Officer Consultation

Both Councillors and Council Officers are familiar with this proposal, which was previously considered at the meeting held on 9 February 2010.

Analysis of Financial and Budget Implications

The refurbishment cost of \$15,000 was allocated as part of the March 2010 budget review.

The lease rental will be \$5,200 per annum, indexed by CPI increase and reviewed annually during the term.

As indicated in the Expression of Interest document that was provided to intending applicants, the City's Executive will be prepared to negotiate the annual rent if the successful applicant can clearly demonstrate their proposed capital investment, as indicated in the attached Evaluation Report, will enhance the operation at no cost to Council.

Life-cycle Maintenance Costs (Capital Works Projects Only)

This will vary depending upon the outcome of negotiations with the successful applicant, as outlined in the "Analysis of Financial and Budget Implications" section above.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The refurbishment and operation of the premises will provide a commercial opportunity as well as providing a service to members of the community using the beach.

Social Issues

The location provides families with an ideal venue to enjoy aquatic sports and beach activities.

Environmental Issues

The use of the premises as a kiosk and other associated public venue facilities, complies with the management order held by the City for the purpose of "Recreation and Aquatic Sports".

Heritage Issues

There are no known heritage issues to consider.

Council Policy Compliance

There is no Council Policy relevant to this proposal.

Legislative Compliance

In accordance with Section 3.58 of the Local Government Act 1995, the intention to grant a lease for the kiosk will be advertised for public information and comment. The proposal will be advertised in the Bunbury Mail Newspaper and displayed on public notice boards at both libraries and the Administration Centre and on the City's website.

Pursuant to Section 18 of the Land Administration Act 1997, the Office of the Minister for Lands has provided "In Principle" approval, subject to formal approval being granted before documentation is finalised.

Delegation of Authority

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

Relevant Precedents

Council has considered proposals from various businesses, community groups and organisations seeking to provide additional services on the City's land holdings.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Per the recommendation listed in this report with amendments/additions determined by Council.

Option 3

Council resolves not to proceed with proposals to accept an "Expression of Interest" for the lease of the Koombana Bay Beach Kiosk.

Conclusion

Due to the expenditure incurred on refurbishment of the premises, it is considered that Council should proceed with the proposal, as recommended.

Recommendation

Council appoint an "Interview Panel" consisting of up to 4 Councillors' to interview applicants who have submitted an "Expression of Interest" for the lease of the Koombana Bay Beach Kiosk and to make a recommendation to Council.

Outcome - Council Committee Meeting 20 April 2010

Cr Harrop disclosed an impartiality interest in this item as she is a friend of one of the applicants for the lease. She will stay, participate in the discussion and vote on this matter.

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Council appoint an "Interview Panel" consisting of up to 4 Councillors' to interview applicants who have submitted an "Expression of Interest" for the lease of the Koombana Bay Beach Kiosk and to make a recommendation to Council.

The four Councillors nominated are as follows:

- His Worship the Mayor, Cr Whittle, Cr Slater and Cr Steele

Outcome – Council Meeting 27 April 2010

Cr Harrop disclosed (refer to section 7 of the minutes) an impartiality interest in this item as she is a friend of one of the applicants for the lease.

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 60/10

Council appoint an "Interview Panel" consisting of up to 4 Councillors' to interview applicants who have submitted an "Expression of Interest" for the lease of the Koombana Bay Beach Kiosk and to make a recommendation to Council.

The four Councillors nominated are as follows:

- *His Worship the Mayor, Cr Whittle, Cr Slater and Cr Steele*

CARRIED

11 Votes "For" / Nil Votes "Against"

11.6 Proposed Sale – Lot 61 on Plan 7362 Corner Sandridge and Picton Roads, Bunbury *(was listed as item 11.10 on the meeting agenda)*

File Ref:	P07790
Applicant/Proponent:	Hornell Nominees Pty Ltd
Author:	Ron Boardley, Senior Property Officer
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

An application has been received from Hornell Nominees Pty Ltd to purchase Lot 61 on Plan 7362 situated at the Corner of Sandridge and Picton Roads, Bunbury. Lot 61 comprises an area of only 11.472 square metres and the applicant proposes to amalgamate this lot with their adjoining Lot 71.

A location map is **attached** at Appendix 4

Background

At the meeting held on 3 July 2007, Council approved the applicant's proposal to close portion of the road reserve also for amalgamation with Lot 71 and support the rezoning to "Mixed Business Zone". Hornell Nominees also wishes to proceed with the purchase of the portion of the road reserve adjoining Lot 71 (as indicated on the attached location map), however State Lands has advised that this cannot proceed at this time, due to the remaining 11.472 square metres contained within Lot 61.

It appears that the remaining portion of Lot 61 was not dedicated as part of the road reserve as it protrudes into the adjoining Lot 71, as indicated on the attached location map.

Landgate Valuation Services advised on 27 August 2009, that the 'Fair Market Value' of the lot is \$1,450, inclusive of GST, on the basis that the land is subject to amalgamation.

Hornell Nominees Pty Ltd has advised that the valuation is acceptable and has agreed to meet all costs associated with the purchase, including an administration fee of \$500.

Strategic and/or Regional Outcomes

The proposal is of only a minor nature and therefore is of no Strategic or Regional significance.

Community Consultation

Community consultation (advertising) is not required as the proposed disposition is exempt from the provisions of Section 3.58 of the Local Government Act 1995. Refer to "Legislative Compliance" section below.

Councillor/Officer Consultation

The City's Executive supports the proposal and have reached mutual agreement with the applicant on the terms and conditions of the sale.

Analysis of Financial and Budget Implications

No provision for the income has been made in the 2009/2010 Budget; however as the valuation of the land is only \$1,450, there will be no impact on the budget.

All costs associated with the sale will be met by Hornell Nominees, including an administration fee of \$500.

Life-cycle Maintenance Costs (Capital Works Projects Only)

No applicable to this item.

Economic, Social, Environmental and Heritage Issues

Economic Issues

Not applicable to this item.

Social Issues

Not applicable to this item.

Environmental Issues

There are no known environmental issues associated with this proposal.

Heritage Issues

There are no known heritage issues associated with this proposal.

Council Policy Compliance

There is no Council policy applicable to the proposal.

Legislative Compliance

Section 3.58 of the Local Government Act 1995 and Regulation 30 of the Local Government (Functions and General) Regulations 1996 does not require advertising of the proposed sale of the Lot where the market value is less than \$5,000 and Council considers that ownership of the Land would not be of significant benefit to anyone other than the transferees.

Delegation of Authority

The Chief Executive Officer does not have the delegated authority to negotiate the land sale.

Relevant Precedents

There are no relevant precedents.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council not support the intention to sell Lot 61 on Plan 7362 Corner Sandridge and Picton Roads, Bunbury.

Conclusion

Due to the small area of land (11.472 square metres), the land is of no value to anyone other than Hornell Nominees Pty Ltd who own the adjoining Lot and therefore the proposed sale should be supported.

Recommendation

Council agrees to sell Lot 61 (11.472 square metres) on Plan 7362 Corner Sandridge and Picton Roads, Bunbury to Hornell Nominees Pty Ltd for \$1,450.00, inclusive of GST, on the basis that the land is subject to amalgamation with the adjoining lot and all costs associated with the sale being met by the purchaser.

Outcome - Council Committee Meeting 20 April 2010

Cr Steck disclosed an interest in this item in accordance with 5.62(e) of the Local Government Act 1995 as she is the defacto of the proponent. She left the chambers at this point and did not participate in the discussion or vote on the matter

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

It was requested that the votes be recorded as follows:

For: Deputy Mayor Cr Kelly, Cr Jones, Cr Whittle, Cr Slater, Cr Harrop, Cr Punch, Cr Craddock

Against: Mayor D Smith, Cr Steele, Cr Leigh

Committee Recommendation

Council agrees to sell Lot 61 (11.472 square metres) on Plan 7362 Corner Sandridge and Picton Roads, Bunbury to Hornell Nominees Pty Ltd for \$1,450.00, inclusive of GST, on the basis that the land is subject to amalgamation with the adjoining lot and all costs associated with the sale being met by the purchaser.

Outcome – Council Meeting 27 April 2010

Cr Steck disclosed (refer to section 7 of these minutes) an interest in this item in accordance with 5.62(e) of the Local Government Act 1995 as she is the defacto of the proponent.

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 61/10

Council agrees to sell Lot 61 (11.472 square metres) on Plan 7362 Corner Sandridge and Picton Roads, Bunbury to Hornell Nominees Pty Ltd for \$1,450.00, inclusive of GST, on the basis that the land is subject to amalgamation with the adjoining lot and all costs associated with the sale being met by the purchaser.

CARRIED
11 Votes "For" / Nil Votes "Against"

11.7 Report on Strategic Activities for Period Ended 31 March 2010 *(was listed as item 11.12 on the meeting agenda)*

File Ref:	A00836
Applicant/Proponent:	Internal Report
Author:	Jack Dyson –Senior Administration Officer
Executive:	Ken Weary – Executive Manager Corporate Services

Summary

Council adopted the Corporate Strategic Plan 2007 – 2012 on 6 March 2007. A report on strategic activities identified in the Strategic Plan for the period 1 July 2009 to 31 March 2010 is circulated **under separate cover**.

The report lists progress on individual goals and strategies linked to the City's Strategic Plan 2007 – 2012, the Principal Plan of Activities and the Annual Budget.

The report reflects the six headings contained in the Strategic Plan, as follows:

1. Improve relationships with state, federal and other local governments.
 - 1.1 Place Bunbury and the South West on the Agenda for the Federal Regional Development Council
 - 1.2 Develop a program of meetings with key State and Federal Government representatives.
 - 1.3 Develop a regional taskforce with key players.
 - 1.4 Establish a City Vision Implementation Taskforce.
2. Strengthen the City of Bunbury's governance and leadership, improve Accountability
 - 2.1 Develop a councillor professional development program
 - 2.2 Implement 5 Year Financial Planning
 - 2.3 Operate Council's land and facilities portfolio as a capital efficient investment
 - 2.4 Improve the level and quality of Customer Service.
3. Deliver major capital projects on time and on budget.
 - 3.1 Develop project management framework
 - 3.2 Have well planned, developed and maintained City Infrastructure.
4. Implement City Vision
 - 4.1 Finalise City Vision Strategy
 - 4.2 Implement City Vision Strategy
5. Promote ecological sustainable development of the City's built and natural environment.
 - 5.1 Protect Bunbury's Natural, Cultural and Built Heritage
 - 5.2 Promote Sustainability and Improve Council's Environmental Performance
 - 5.3 Provide a cohesive system of integrated land use planning; and

6. Develop Social Capital
 - 6.1 Celebrate and reinforce a positive sense of community
 - 6.2 Community participation, partnership and support
 - 6.3 Community planning and infrastructure
 - 6.4 Community safety
 - 6.5 Social inclusion and needs
 - 6.6 Information and Lifelong Learning.

Recommendation

The report on Strategic Activities for the period ended 31 March 2010 be received.

Outcome - Council Committee Meeting 20 April 2010

The recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr Leigh.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

The report on Strategic Activities for the period ended 31 March 2010 be received.

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 62/10

The report on Strategic Activities for the period ended 31 March 2010 be received.

CARRIED

11 Votes "For" / Nil Votes "Against"

11.8 Proposed Inclusion of Bunbury Council Chambers on State Register of Heritage Places *(was listed as item 11.13 on the meeting agenda)*

File Ref:	A00537
Applicant/Proponent:	Internal
Author:	Leigh Barrett, Planning Officer (Heritage)
Executive:	Geoff Klem, Executive Manager City Development

Summary

The Bunbury Council Chambers at 2 Stephen Street, Bunbury has been proposed for consideration by the Heritage Council of Western Australia for inclusion in the State Register of Heritage Places.

The City's comment on this proposal is being sought.

The matter will then be considered by HCWA's Registration Committee and if it is considered by the Committee that the place has State heritage value, it will be recommended to the Minister for Heritage for interim registration. Subject to the Minister's support, and following a public advertising period and consideration of submissions, HCWA may then recommend to the Minister that the place be entered into the State Register on a permanent basis.

Background

The Bunbury Council Chambers has been included on the City of Bunbury Municipal Inventory since its inception in 1994 and in the original City of Bunbury Heritage List (Town Planning Scheme No. 7) in 2001.

The State Register of Heritage Places is a list of places that have heritage value and includes buildings, structures gardens, cemeteries, landscapes and archaeological sites. Entry in the State Register recognises a place's value and importance to Western Australia and helps ensure that it is conserved into the future ('State Register of Heritage Places' HCWA 2006).

The Bunbury Council Chambers has been included on the Heritage Council of Western Australia's (HCWA) assessment program since November 2003. A preliminary assessment of a place is undertaken to determine whether it meets the threshold for inclusion on the Register of Heritage Places (RHP) prior to its inclusion on the assessment program.

In 2009, consultants engaged by HCWA researched and assessed the place and prepared documentation which includes a statement of significance, assessment of cultural heritage significance and documentary evidence (Please refer to Attachment 1 in the report issued **under separate cover**).

The Statement of Significance as detailed in the assessment documentation is as follows:

Bunbury Council Chambers, a single-storey rendered brick building with a corrugated iron parapeted roof, originally designed and built in the Federation Free Classical style in 1897, extended and remodelled in the Inter-War Art Deco style in 1935-36, has cultural heritage significance for the following reasons:

- *The place is a good example of a council chambers and offices building in the Inter-War Art Deco style and of the design work of prominent architect EG Cohen of Eales & Cohen;*
- *With its distinctive Art Deco style and decoration and prominent bays, and its location on a prominent street corner, the place is a landmark in the central area of Bunbury, and an integral part of a precinct of civic and heritage buildings at the southern edge of this area of the city;*
- *The history of the place and changes to it since its original construction illustrate the development of key civic facilities in an important regional centre, and the place has been an important focus for the community of Bunbury since 1897;*
- *The place is a fine example of a Federation period, regional civic building remodelled and extended in the Inter-War Art Deco style;*
- *The Centenary Gardens, commemorating Bunbury's centenary in 1936, are rare in Western Australia, and*
- *The first stage of the place was designed by architect PW Harrison and was built during the gold boom period when Bunbury was prospering and growing following development of railways and the harbour at the port.*

The proposed registered area includes the majority of Lot 150 Stephen Street, Bunbury with the exception of a small portion in the north-east corner which corresponds generally with the car parking area (refer to Attachments 2 and 3 of the report issued **under separate cover**).

The registered area includes the more modern buildings, however it is clear from the Statement of Significance and the assessment documentation that the registration applies to the original chambers building and Centenary Park. Whilst any proposals for structural changes to all buildings on the site will require referral to HCWA for comment, it is unlikely that works on the newer buildings will be restricted by the heritage listing unless they impact on the original chambers building or on the park.

According to the 2006 HCWA publication 'State Register of Heritage Places' *registration of a place includes the land, all structures on it and any material below it. The whole place is generally considered to have heritage value and registration is rarely limited just to the building footprint or a single structure. However, if there is any element within the registered place that has low individual significance, this is identified in the assessment documentation as a way to guide change and future development.*

Entry in the State Register will entitle Council to apply for grants and incentives to assist in the conservation of the heritage place.

Strategic and/or Regional Outcomes

The City Vision Strategy identifies the following social goal “...*To plan and develop cohesive, inclusive, educated and healthy communities with a strong sense of place, access to all essential services and facilities and housing to meet diverse needs.*”

The identification, protection and management of significant heritage and cultural areas and sites was considered to be one of nine objectives required to meet this goal, specifically “...*Identify, protect and manage significant heritage and cultural areas and sites.*”

Strategy 5.1 of the *City of Bunbury Strategic Plan 2007-2012* states that “...*the City of Bunbury will strive to protect Bunbury’s unique natural environment and cultural and built heritage for the benefit of current and future generations.*”

Community Consultation

The proposal was referred to the City of Bunbury Heritage Advisory Committee at its meeting of 17 February 2010. The Committee supports the inclusion of the Council Chambers on the RHP.

Councillor/Officer Consultation

Councillors Kelly and Harrop attended the Heritage Advisory Committee meeting (17 February 2010) at which this matter was discussed and support the proposal.

The issue has also been discussed at an Executive Management Team meeting.

Analysis of Financial and Budget Implications

There are no financial or budget implications.

Economic, Social, Environmental and Heritage Issues

There are no economic, social or environmental implications.

Inclusion of the Bunbury Council Chambers will ensure the protection of this heritage place which is considered to have considerable local and state significance.

Council’s support of the inclusion of the Chambers on the RHP will demonstrate to the Bunbury community, Council’s commitment to the protection and retention of places of heritage significance in the City.

Council Policy Compliance

The City of Bunbury Local Planning Strategy for Heritage and Character (adopted by Council in November 2007) states that “it is imperative that the community is assured that the City of Bunbury is committed to ensuring the retention of its heritage assets” and that the City “will seek to lead by example by managing heritage places in the City’s ownership in accordance with this Strategy and the associated policies”.

It is considered that the City's support of the inclusion of the Council Chambers in the State Register of Heritage Places is consistent with the Local Planning Strategy.

Legislative Compliance

Nil

Delegation of Authority

Council's support is being sought as the proposal has implications for the future development of the site.

Relevant Precedents

Other Council properties including the former Convent of Mercy (Bunbury Regional Art Galleries), the former Government Boys School (Paisley Centre) and Anzac Park are included in the RHP.

Options

Option 1

That Council supports the entry of the Bunbury Council Chambers in the State Register of Heritage Places and advises the Heritage Council of Western Australia accordingly.

Conclusion

Council's support of the inclusion of the Bunbury Council Chambers will ensure the ongoing protection of the place and demonstrate Council's commitment to the conservation of heritage places within the City of Bunbury.

Whilst there are some implications for the development of the site, it is not considered that these will impact significantly on Council's future use of the site.

Recommendation

1. That Council supports the entry of the Bunbury Council Chambers in the State Register of Heritage Places; and
2. That Council advises the Heritage Council of Western Australia accordingly.

Outcome - Council Committee Meeting 20 April 2010

The recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr Craddock.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

1. That Council supports the entry of the Bunbury Council Chambers in the State Register of Heritage Places; and
2. That Council advises the Heritage Council of Western Australia accordingly.

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 63/10

1. *That Council supports the entry of the Bunbury Council Chambers in the State Register of Heritage Places; and*
2. *That Council advises the Heritage Council of Western Australia accordingly.*

CARRIED

11 Votes "For" / Nil Votes "Against"

11.9 Financial Statements - March 2010 *(was listed as item 11.15 on the meeting agenda)*

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

Summary/Background

Financial Statements for the period ending 31 March 2010 have been circulated to members **under separate cover**. The statements include the following:

- Income Statement
- Balance Sheet
- Statement of Changes in Equity
- Statement of Financial Activity
- Statement of General Purpose Income
- Statement of Rating Information

The Financial Statements also contain a number of explanatory notes covering the following topics:

- Significant Accounting Policies
- Description of Programmes
- Net Current Assets
- Trade and Other Receivables
- Other Current Assets
- Trade and Other Payables
- Provisions
- Trust Funds
- Capital Expenditure
- Key Operating Expenditure & Income
- Loan Funds
- Reserve Funds
- Bunbury Timber Jetty
- Investment Funds

Recommendation

The Financial Statements for the periods ending 31 March 2010 be received.

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

The Financial Statements for the periods ending 31 March 2010 be received.

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 64/10

The Financial Statements for the periods ending 31 March 2010 be received.

CARRIED
11 Votes "For" / Nil Votes "Against"

11.10 Advisory Committee and/or Project Control Group Minutes to be Noted at the Council Committee Meeting *(was listed as item 11.16 on the meeting agenda)*

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

1. Title: Minutes – Land Rationalisation & Acquisitions Committee (25/03/2010)
Author: Paul Davies, Planning Consultant
File: A03518
2. Title: Minutes – Bunbury Setagaya Sister Cities Committee (18/11/2009)
Author: Jenelle Dunn, Cultural Development Officer
File: A00443-27
3. Title: Minutes – Policy Review and Development (Standing) Committee (24/03/2010)
Author: Jack Dyson, Senior Administration Officer
File: A04051
4. Title: Minutes – Bunbury Environment and Sustainability Advisory Committee (01/04/2010)
Author: Ben Deeley, Environment Officer
File: A02445/FOL111
5. Title: Minutes – City Promotions Committee (29/10/2009 & 21/12/2009)
Author: Nardine Walford-Jones, Events Officer
File: A03402

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

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

1. Title: Minutes – Land Rationalisation & Acquisitions Committee (25/03/2010)

- Author: Paul Davies, Planning Consultant
File: A03518
2. Title: Minutes – Bunbury Setagaya Sister Cities Committee (18/11/2009)
Author: Jenelle Dunn, Cultural Development Officer
File: A00443-27
3. Title: Minutes – Policy Review and Development (Standing) Committee (24/03/2010)
Author: Jack Dyson, Senior Administration Officer
File: A04051
4. Title: Minutes – Bunbury Environment and Sustainability Advisory Committee (01/04/2010)
Author: Ben Deeley, Environment Officer
File: A02445/FOL111
5. Title: Minutes – City Promotions Committee (29/10/2009 & 21/12/2009)
Author: Nardine Walford-Jones, Events Officer
File: A03402

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 65/10

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

1. Title: Minutes – Land Rationalisation & Acquisitions Committee (25/03/2010)
Author: Paul Davies, Planning Consultant
File: A03518
2. Title: Minutes – Bunbury Setagaya Sister Cities Committee (18/11/2009)
Author: Jenelle Dunn, Cultural Development Officer
File: A00443-27
3. Title: Minutes – Policy Review and Development (Standing) Committee (24/03/2010)
Author: Jack Dyson, Senior Administration Officer
File: A04051
4. Title: Minutes – Bunbury Environment and Sustainability Advisory Committee (01/04/2010)
Author: Ben Deeley, Environment Officer
File: A02445/FOL111
5. Title: Minutes – City Promotions Committee (29/10/2009 & 21/12/2009)
Author: Nardine Walford-Jones, Events Officer
File: A03402

CARRIED
11 Votes "For" / Nil Votes "Against"

11.11 Items to be Noted (No Discussion) at the Council Committee Meeting *(was listed as item 11.18 on the meeting agenda)*

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: Building Approvals/Development Applications – March 2010
Author: Gary Fitzgerald, Manager Development Services
File: A00566
2. Title: Schedule of Accounts Paid for the Period 1 March 2010 to 31 March 2010
Author: David Ransom, City Accountant
File: A00083

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted 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: Building Approvals/Development Applications – March 2010
Author: Gary Fitzgerald, Manager Development Services
File: A00566
2. Title: Schedule of Accounts Paid for the Period 1 March 2010 to 31 March 2010
Author: David Ransom, City Accountant
File: A00083

Outcome – Council Meeting 27 April 2010

Pursuant to Standing Order 16.1.1 the recommendation as printed was moved Cr Harrop, seconded Cr Jones and adopted ('en bloc') to become the Council's decision on this matter:

Council Decision 66/10

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

1. *Title: Building Approvals/Development Applications – March 2010
Author: Gary Fitzgerald, Manager Development Services
File: A00566*

2. *Title: Schedule of Accounts Paid for the Period 1 March 2010 to
31 March 2010
Author: David Ransom, City Accountant
File: A00083*

CARRIED

11 Votes "For" / Nil Votes "Against"

11.12 Ex-Tensions Restaurant – Application to Support Section 40 Application (was listed as item 11.2 on the meeting agenda)

File Ref:	F00046-05
Applicant/Proponent:	Fred Lemmone – Prospero Corporation P/L
Author:	Sam McNeilly, Coordinator Statutory Planning
Executive:	Geoff Klem, Executive Manager City Development

Summary

The City has received communication from Mr Fred Lemmone (Prospero Corporation P/L) notifying the City that an application has been lodged with the Department of Racing Gaming and Liquor (DRGL) for an Extended Trading Permit (ETP) to allow 100% consumption of liquor without a meal in the restaurant area of the Ex-tensions Restaurant, Ocean Drive. Currently the operator of the facility has a Restaurant licence for the premises and has already obtained a 20% Extended Trading Permit from the Department of Racing Gaming and Liquor and is allowed to set aside 20% of the restaurant for drinking alcohol without a meal. The applicant is required under Section 40 of the *Liquor Control Act 1988* to submit (to DRGL) a local government certificate (Section 40 Certificate) in respect of town planning matters prior to the DRGL determining the matter. It is for this reason principally that the matter is submitted to Council for consideration and also in respect of the fact that the matter may be contentious.

The City of Bunbury is the owner of the subject land. A location plan is **attached** at Appendix 8.

The City has considered the matter over a period of time and has, most recently, required the applicant to submit a Public Interest Assessment (PIA) in support of his application. The mechanism of a PIA is normally a requirement of the Department for Racing Gaming and Liquor (DRGL) in terms of the consideration of an ETP; however the City considered that it would be prudent to require the submission of a PIA (in advance of the DRGL considering the matter) as part of the process of considering Section 40 certification with a view to being better informed in terms of making a recommendation to Council and particularly because of the potential social impacts in respect of the matter.

Development Services has concluded that on balance it would be preferable not to support the application. However it is suggested that the development could be supported, it is considered, with a condition to the effect that a maximum of 50% of the restaurant area be allocated for the consumption of alcohol without a meal.

Background

The operator of the facility is already in possession of a 20% ETP which allows him to sell liquor over 20% of the restaurant area without a meal and in line with other normal requirements of the *Liquor Control Act 1988* (LCA 1988).

Most recently (17 March 2009) the applicant notified the City that he had submitted a request to the DRGL for a “100% ETP – Restaurant to sell liquor without a meal”.

The trading hours sought are:

Monday	8am to 12pm
Tuesday	8am to 12pm
Wednesday	8am to 12pm
Thursday	8am to 12pm
Friday	7am to 12pm
Saturday	8am to 12pm
Sunday	8am to 10pm

The City then supported the issuance of a Section 40 Certificate subject to conditions, viz.:

1. *The proposed Section 40 to be applied in line with the definition of "Restaurant" under Town Planning Scheme 7 which specifies as follows: "means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under Liquor Licensing Act 1988", and,*
2. *The proposed 100% ETP being deleted from the current Section 40 application (the City does not support the 100% ETP).*

The applicant subsequently wrote to the City to request that the City reconsider Condition 2 of the Section 40 certification. The applicant's Town Planning Consultant (Graham Houghton, Town Planning Consultant) wrote in reply in the following terms:

"as explained at the meeting and in the papers we left with you, the application to vary the extended trading to 100% will not and cannot alter the existing licence from being a restaurant licence because of the conditions applied by the Director of Liquor Licensing. Accordingly we are seeking a reconsideration of the certificate that the City issued to remove the condition 2."

The City subsequently advised the applicant to the effect that prior to further consideration of the matter, it would require the preparation and submission of a Public Interest Assessment (PIA). The City considered that the submission of a PIA was important in order to allow the City to make an informed decision on the matter in that the applicant was requesting approval for a 100% ETP – i.e. the use of the entire restaurant area for drinking alcohol without a meal.

The applicant submitted a PIA for consideration and this is discussed later in this report.

Proposal

The current proposal by the applicant is essentially to request Council's issuance of a Section 40 Certificate pursuant to the Liquor Licensing Act 1988, without limiting the 100% ETP request - i.e. to allow 100% consumption of liquor without a meal, in the restaurant area. The formal application to the City reads as follows: "CATEGORY and TYPE of LICENCE: 100% ETP Restaurant to sell liquor without a meal". A plan which accompanied the application to the City is **attached** at Appendix 9.

The following criteria are considered relevant in terms of properly considering the matter, and in terms of Council determining as to whether it will, or will not, agree to support the issuance of a Section 40 Certificate with no limit in respect of the 100% ETP request to DRGL.

Land-use

The subject land is currently zoned “Special Use 14 – Public Entertainment” in TPS 7. The land uses which can be approved in Special Use zone 14 are: Public Entertainment, Toilet Facilities, Recreation Facilities, Convention Facilities, Public Assembly, Kiosk/Restaurant, Surf Club, Public Ablutions and Related Beach facilities to the above activities. The current Lease documents show that “Public Entertainment” is the permitted land use.

It is considered that the proposal would be acceptable from a pure land-use perspective in that the proposal to allow an ETP would fall within the ambit of the meaning (in TPS 7) of ‘Public Entertainment’. Notwithstanding, the matter of the extent (100% or otherwise) of the ETP is a matter of relative importance in respect of social planning.

It is noted that the Schedule of Conditions relating to the relevant Lease (No. 1131306) states (in part) that: “...*The lessee shall not without the prior approval in writing of the Minister use the land for any purpose other than ‘Public Entertainment’...*”

Public Interest Assessment

DRGL data states that an applicant must lodge a Public Interest Assessment (PIA) submission to support their application for a liquor licence which outlines information on the premises’ impact on a number of factors including, but not limited to (in summary):

- The harm or ill-health caused to at-risk groups within the area,
- Information on the social health indicators for the suburb or town in which the premises are located.....
- The impact on the amenity including a social profile of the locality.
- The location of all existing licensed premises within the suburb in which the proposed premises is to be located (outlet density information).

Strategies to Combat Offence, Annoyance, Disturbance or Inconvenience

The PIA which has been submitted does not address the known antisocial incidents which occur in the vicinity of the subject premises. Currently the surrounding local area (Back Beach and car parks) where the Extensions Restaurant is located has frequent incidences of anti-social behaviour and a high number of alcohol created incidents which are being managed with new signage through the Alcohol Accord, CCTV cameras and regular Police patrols. Although the incidents may not be associated directly with the Extensions Restaurant, consideration should ideally be

given as to whether a 100% ETP may contribute to an increase in these social problems.

The provisional PIA mentions packaged liquor being able to be sold from the premises; this may contribute to the antisocial behaviour and alcohol related issues currently being experienced in the immediate vicinity.

The PIA mentions that the new facility of a 100% ETP will “add to the amenity of the Central Business District”. However it is noted that in fact the premises are not located in the CBD and are geographically removed from the CBD.

General efficacy of the ETP Application

Currently, the applicant operates his business by dint of the fact that he has a Restaurant Licence (issued by DRGL). A restaurant may supply liquor without a meal to all customers provided they apply for and are granted an Extended Trading Permit.

The DRGL advises that *“a restaurant licensee’s ability to serve liquor without a meal in not an automatic right.”* Liquor without a meal permits are subject to the public interest test. Strict conditions may apply to permits, including (but not limited to):

- The restaurant always being set up and presented for dining;
- Tables cannot be moved in order to create dance floors;
- Kitchen must always be open for meals;
- Liquor must be consumed by patrons seated and at dining tables;
- Table service by restaurant staff, i.e. no bar service;
- Venue cannot be advertised for but a restaurant only; and,
- The permit would not apply to any area currently trading under an “al-fresco” extended trading permit.

Issues which would tend to militate against the support of a 100% ETP are as follows.

Whilst the State’s Liquor Laws provide a legislative framework that focuses on regulating the production, sale, supply, and consumption of liquor in Western Australia, the Liquor Control Act 1988 also focuses (as a key objective) on *“minimising harm or ill-health caused to people, or any group of people, from the use of liquor”*. It is considered that support for 100% ETP would be out of keeping with this central objective of the Liquor Control Act 1988.

Support for a 100% ETP would, it is considered, not be in the public interest. Such support would tend to give the wrong signal to the community at large and would tend it is considered to provide a liquor/ food imbalance in the facility. With a 100% ETP this would breach one of the key objectives of the Liquor Control Act 1988 in that one key objective is the *“minimisation of harm or ill-health as a result of the inappropriate use of liquor”*.

Currently, the operator of the facility has a Restaurant licence (with a 20% ETP which permits 20% of the floor area of the restaurant areas to be used for the sale of liquor without a meal). It is considered that if 100% of the area of the restaurant areas were to be set aside for the sale of alcohol without meal, that this would result in the facility taking on the tone of a tavern and significantly diminish the focus on the facility being a restaurant. It is noted that the use-class "tavern" is not permitted in Special Use zone 14.

Should the 100% ETP be approved then the facility would be much less family-friendly (from the current situation), and this, it is considered, would be less than desirable from a social perspective.

Development Services has concluded therefore that on balance it would be preferable not to support a 100% ETP to allow alcohol to be consumed without a meal in the restaurant areas of the facility. However it is suggested that the development could be supported with a condition to the effect that a maximum of 50% of the restaurant area be allocated for the consumption of alcohol without a meal. It is considered that this would provide a reasonable balance between the interests of the tourist industry, business, and, importantly also, the community.

Strategic Outcomes

It is considered that the broad direction of the City's current Strategic Plan would not be compromised by supporting the proposal. Notwithstanding it is noted that Council has as a major Strategic Objective to "Develop Social Capital" within the strategic plan period.

In this regard, it is stated in the City's 2007/2012 Strategic Plan that "...*The City of Bunbury has recognised that it has a key role in development of social capital at community and organisational levels. For the community, social capital means community and social development, community wellbeing, culture, community health and safety, leisure, volunteerism and lifelong learning. For the organisation social capital means a commitment to a culture of organisational learning through successful collaboration, connections and shared understanding between our people...*"

It is considered that support for a full 100% ETP in respect of the Extensions Restaurant would be out of keeping with the goals of the City in respect of developing social capital within the community and in terms of maximising community wellbeing.

Community Consultation

Community consultation has essentially been actioned by the DRGL in that the PIA (marked "Preliminary") has been advertised (action by DRGL) for public comment. The City is not privy to the public submissions in this regard, but it is understood that the DRGL will take such submissions into consideration (along with Council's determination) when it makes its decision in respect of the ETP application.

Applicant Consultation

In order to progress the matter, discussions have been undertaken with the applicant on a number of occasions. The City has also had discussions with representatives of the DRGL in respect of the matter.

Councillor/Officer Consultation

Various issues in this regard have been broadly canvassed at staff level within Development Services and within other City Departments with a view to achieving a corporate approach to the decision making process.

Analysis of Financial and Budget Implications

It is considered that there would be no adverse impact on the Municipal Budget as a result of the proposal being approved.

Economic, Social, Environmental and Heritage Issues

Economic

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

Social

It is considered that there would be adverse social consequences to allowing a 100% ETP (which would permit consumption of liquor without a meal over 100% of the current restaurant area). Development Services is of the view that if the proposed development were to be approved, that this would be tantamount, potentially, to allowing a tavern-like development. The LQA 1988 focuses, in addition to another key objective of controlling the production and sale of liquor in the State, on minimising harm or ill-health caused to people, or any group of people, from the use of alcoholic liquor. It is considered that the approval of a full 100% ETP would send the wrong educative signal to the community and would, it is considered, tend to result in adverse social consequences in the local and general community.

Environmental

Nil impact in this regard.

Heritage

Nil adverse impact in this regard.

Council Policy Compliance

There is no known non-compliance in this regard.

Legislative Compliance

Legislative requirements relating to the Local Government Act 1995, the Planning and Development Act 2005, or any other Act, Local Law or Regulations have been complied with in the processes leading up to the finalisation of this item. It should be noted additionally that the proposed activity will be required to comply with the requirements of the Health Act 1911 and the City of Bunbury Health Local Laws 2001.

Delegation of Authority

Development Services is of the view that it would be preferable that Council make the determination on the application in that the matter may be contentious and in that there may be social consequences in respect of approving the development as currently proposed.

Relevant Precedents

There are no known precisely relevant precedents. Development Services notes however that the Hungry Hollow restaurant was previously subject of complaints from residents in respect of its operation. Council will recall the complexity of the issues involved and the adverse social impact in this respect, and that, a number of years ago, the City initiated legal action against the proprietor in terms of the operation of a "tavern", so to speak, without the necessary grant of planning approval

Options

Option 1

Per the Executive Recommendation.

Option 2

Should Council determine to resolve to support the issuance of a Section 40 Certificate without limit in respect of consumption of liquor (i.e. a 100% ETP) a suggested format for such action is as follows:

- Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, resolves to write to the applicant, Mr Fred Lemmone, Propero P/L, and the DRGL to advise that Council supports a 100% ETP to allow the operator of the Extensions Restaurant, Ocean Drive, to sell alcohol without a meal in the restaurant areas of the facility, and that such support is conditional on there being no sales of packaged liquor from the premises, and that any necessary amendment to the Lease is actioned to the satisfaction of the City's Mgr. Property.

Option 3:

Should Council determine to refuse to support a 100% ETP in any form, a suggested format for such action is as follows:

- Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, resolves to write to the applicant, Mr Fred Lemmone, Propero P/L, and the DRGL to advise that Council does not support a 100% ETP to allow the operator of the Ex-tensions Restaurant, Ocean Drive, to sell alcohol without a meal in the restaurant areas of the facility for the following reasons, viz.:
 - The proposed 100% ETP would not be in the Public Interest in that currently there are unresolved anti-social community issues in the vicinity of the facility and in that it is considered that any significant increase in the level of consumption of liquor may tend to exacerbate this situation.
 - The proposal would tend, in the view of the Council of the City of Bunbury, not to meet a key objective of the Liquor Control Act 1988 which reads as follows, viz.: "minimisation of harm or ill-health as a result of the inappropriate use of liquor".
 - Support for a 100% ETP would not be in the public interest in Council's view, and would send the wrong signal to the community in terms of liquor consumption.

Conclusion

Development Services, after consideration, has concluded that on balance it would be preferable not to support a 100% ETP to allow alcohol to be consumed without a meal in the restaurant areas of the facility.

It is considered that should a 100% ETP be approved that this would be contrary to a central objective of the Liquor Control Act 1988 which is to aimed (as well as the central objective of controlling the sale and supply of liquor) at the minimisation of harm or ill-health as a result of the inappropriate use of liquor. Such approval would send the wrong signal to the community in respect of the consumption of liquor and would result in the facility being less family friendly. However it is suggested that the development could be supported with a condition to the effect that a maximum of 50% (subject to a 12 month trial period) of the restaurant area be allocated for the consumption of alcohol without a meal.

Recommendation

Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, resolves to write to the applicant Mr Fred Lemmone, Propero Pty Ltd, and the Department of Racing Gaming and Liquor to advise:

1. That Council does not support the applicant's request for a 100% Extended Trading Permit (to allow the consumption of liquor in 100% of the restaurant areas of the Extensions Restaurant, Ocean Drive)
2. That Council supports the issuance of an Extended Trading Permit to allow 50% (from the current 20%) of the area of the restaurant to be used for

consumption of alcohol without a meal, and that such support is conditional on:

- 2.1 There being no sales of packaged liquor from the premises;
 - 2.2 Any necessary amendment to the Lease is actioned to the satisfaction of the City's Manager of Property Services.
 - 2.3 A trial period for such approval being instituted for an initial one year period and that if the incidences of anti-social behaviour in the vicinity of the Ex-tensions Restaurant are shown to be contained to the satisfaction of the City, and the Department of Racing Gaming and Liquor, within such time period, that such approval be formalised for a longer period to the satisfaction of the Department of Racing Gaming and Liquor.
3. That the reasons that Council does not support a 100% Extended Trading Permit is as follows:
- 3.1 The proposed 100% Extended Trading Permit would not be in the Public Interest in that currently there are unresolved anti-social community issues in the vicinity of the facility and in that it is considered that any significant increase in the level of consumption of liquor may tend to exacerbate this situation.
 - 3.2 The proposal would tend, in the view of the Council of the City of Bunbury, not to meet a key objective of the Liquor Control Act 1988 which reads as follows, viz.: "minimisation of harm or ill-health as a result of the inappropriate use of liquor".
 - 3.3 Support for a 100% Extended Trading Permit would not be in the public interest in Council's view, and would send the wrong signal to the community in terms of liquor consumption.

Outcome - Council Committee Meeting 20 April 2010

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

Mr Fred Lamone, owner/operator of Ex-Tensions, addressed the Committee and stated that he was against the recommendation. During the discussion the following points were raised:

- The Liquor licensing reforms provide more choice for patrons but does not provide more liquor licenses.
- It encourages tourism
- Promotes responsible public drinking
- The application essentially does away with having to purchase a meal in order to have a drink.
- There is no intention for the Ex-Tensions to become a Tavern

- The issue is to have 100% extended trading permit so that patrons are able to sit any where in the restaurant rather than being segregated to a particular part of the restaurant.
- The business relies on tourism and they want to promote the restaurant to the tourists.
- One (1) Bunbury restaurant has already been granted a 100% license.
- All of his staff members are trained in the responsible service of alcohol.

Mr Lamone handed the Committee members a pamphlet that the Department of Racing Gaming and Liquor gave to all licensees about the new reforms that were introduced in May 2007.

Mr Graham Houghton, Consultant, also addressed the Committee and stated that he was against the recommendation for the following reasons:

- To confirm that just because a restaurant is granted a 100% ETP they could change into a Tavern is untrue.
- Permits are conditioned to the service of meals and that 60% of the revenue must come from the serving of meals.
- Ex-Tensions will never become a defacto tavern; if it does the licence will be revoked.
- Liquor licenses are too hard to obtain and therefore the licensee will not do anything that would jeopardise their license and cause them to lose it.

Cr Steck moved, Cr Major seconded Option 2 of this report.

The Mayor put option 2 to the vote and was adopted to become the Committee's recommendation on this issue.

It was requested that the votes be recorded as follows:

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

Committee Recommendation

Should Council determine to resolve to support the issuance of a Section 40 Certificate without limit in respect of consumption of liquor (i.e. a 100% ETP) a suggested format for such action is as follows:

- Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, resolves to write to the applicant, Mr Fred Lemmone, Prospero Pty Ltd, and the Department of Racing Gaming and Liquor to advise that Council supports a 100% ETP to allow the operator of the Ex-Tensions Restaurant, Ocean Drive, to sell alcohol without a meal in the restaurant areas of the facility, and that such support is conditional on there being no sales of packaged liquor from the premises, and that any necessary amendment to the Lease is actioned to the satisfaction of the City's Manager of Property.

Outcome - Council Meeting 27 April 2010

A memo from the City of Bunbury's Coordinator Statutory Services was handed to Councillor's prior to the meeting starting with an amendment to the Committee recommendation.

The Mayor asked Mr Fred Lamone, owner/operator Ex-Tensions Restaurant, if he found the amendment acceptable. Mr Lamone stated that he was happy to accept the conditions outlined in the memo.

The recommendation (as amended) from the Council Standing Committee was moved Cr Craddock, seconded Cr Steck.

The motion (as amended) was put to the vote and adopted to become the Council's decision on this issue.

Council Decision 67/10

Should Council determine to resolve to support the issuance of a Section 40 Certificate without limit in respect of consumption of liquor (i.e. a 100% ETP) a suggested format for such action is as follows:

- *Council, under and by virtue of the powers conferred upon it in that behalf pursuant to the provisions of the Planning and Development Act 2005, resolves to write to the applicant, Mr Fred Lemmone, Prospero Pty Ltd, and the Department of Racing Gaming and Liquor to advise that Council supports a 100% ETP to allow the operator of the Ex-Tensions Restaurant, Ocean Drive, to sell alcohol without a meal in the restaurant areas of the facility, and that such support is conditional on there being no sales of packaged liquor from the premises, and that any necessary amendment to the Lease is actioned to the satisfaction of the City's Manager of Property and conditional on a trial period for such approval being instituted for an initial one year period and that if the incidences of anti-social behaviour in the vicinity of the Ex-Tensions Restaurant are shown to be contained to the satisfaction of the City, and the Department of Racing Gaming and Liquor (DRGL), within such time period, that such approval be formalised for a longer period to the satisfaction of the DRGL.*

CARRIED
7 Votes "For" / 4 Votes "Against"

It was requested that the votes be recorded as follows:

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

11.13 Bunbury Museum Feasibility Study *(was listed as item 11.3 on the meeting agenda)*

File Ref:	A01262-06
Applicant/Proponent:	Internal
Author:	Jenelle Dunn Cultural, Development Officer
Executive:	Domenic Marzano, Executive Manager City Life

Summary

The City of Bunbury received a grant of \$15,000 from Lotterywest to conduct a feasibility study for a local Bunbury Museum. King Cottage Museum and the Paisley Centre are two potential sites included in the scope of the study.

The City contracted Malloway Studio to examine the potential visitor base, collection focus, possibilities for education, management structure, staffing, capital and ongoing cost. This information is detailed in the report circulated to members under separate cover.

Recommendations are now submitted for Council consideration.

Background

The Greater Bunbury Region is larger than either Albany or Kalgoorlie. Those other regional centres have branches of the Western Australian Museum. Bunbury has only one museum of significance, King Cottage Museum, operated mostly by voluntary staff under the auspices of the Bunbury Historical Society.

The City has made several attempts in the past to establish a regional museum in Bunbury; however without the support of the Museum of WA, a regional museum is not feasible at this time. For this reason, the City has decided to investigate a Bunbury museum, which may prove a more achievable option.

The study concludes that a local Bunbury Museum is feasible and proposes that it be established on a split-site, in consultation with the Bunbury Historical Society, with the gallery spaces of the Museum at the Paisley Centre and conservation and storage facilities at King Cottage.

Strategic and/or Regional Outcomes

This report and recommendations link to the City's Strategic Plan 2007-2012, Strategic Objective 6: Develop Social Capital.

In particular, the report seeks to build on:

- Strategy 6.1: Celebrate and reinforce a positive sense of community;
- Strategy 6.2: Community participation, partnership and support;
- Strategy 6.3: Community planning and infrastructure; and
- Strategy 6.6: Information and lifelong learning.

Community Consultation

The City of Bunbury sought community input through two public forums and meetings with key stakeholder groups. Some members of the community elected to send emails and letters during the consultation phase which were forwarded to the consultants for inclusion in the process.

Members of the Bunbury Historical Society and the two Paisley Centre lessees have received the report and meetings have been held with these three key stakeholders to discuss the report recommendations and seek feedback on these recommendations.

Both the Historical Society and the owner of the Singing Chef restaurant at the Paisley Centre have provided written feedback on the report, which was provided to Councillors at the Council briefing on 30 March 2010. The lessee of the Dance Studio at the Paisley Centre has elected not to provide feedback on the report at this stage.

The Historical Society, owner of Singing Chef and lessee of the Dance Studio were all invited to attend the Council Committee Meeting and advised of the procedure in order to address Council at this meeting if desired.

In addition, the report went out to public comment on 6 April 2010. Copies were available on short-term loan from the City of Bunbury Library on Parkfield Street and at the Administration Building and on the City's website. Comments will be collated and tabled at the Council Committee Meeting on 20 April 2010.

Councillor/Officer Consultation

All Councillors were invited to attend the public forums, and stakeholder meetings were held with the Mayor and Deputy Mayor. Staff were also invited to attend the public forums and relevant staff members met with the consultants.

Staff were also advised by email on 6 April 2010 that the Bunbury Museum Feasibility Report was available for public comment.

Analysis of Financial and Budget Implications

The table below summarises the cost of capital works, operating expenditure and income for Stages 1 and 2 of the establishment of a Bunbury Museum. Section 8 of the report gives additional detail on these costings.

	Stage 1		Stage 2		
Year	2010/11	2011/2012	2012/2013	2013/2014	2014/2015
Capital works	\$236,500	\$2,927,350	\$302,100	\$2,359,340	\$1,637,300
Operating Expenditure	\$134,668	\$315,407	\$313,766	\$322,375	\$331,241
Income	-	\$50,450	\$50,914	\$51,391	\$51,883

Stage 1 may also be viewed as a stand-alone option for Council consideration.

For the 2010/11 budget, Council is requested to consider the provision of adequate funding for the appointment of a full time curator and part time administration assistant (approximately \$115,000 as per report but for $\frac{3}{4}$ year plus activity costings) to work in consultation with the Bunbury Historical Society in both:

- a. preparing for the establishment of a local museum (e.g recommending a collections policy, conservation policy and possible themes); and
- b. improving the existing King Cottage Museum.

Council is also requested to consider the provision of adequate funding in the 2010/11 budget for design costs associated with the planning for a local Bunbury Museum (\$236,500 as per report i.e. \$226,000 for Paisley Centre and \$10,500 for King Cottage)

This report was circulated to members under separate cover at Council Briefing on 30 March 2010.

Economic, Social, Environmental and Heritage Issues

The recommendation will have an impact on economic, social, tourism and heritage issues. The report addresses visitor profiles, social history and heritage issues.

Council Policy Compliance

There is no Council policy applicable to the proposal.

Legislative Compliance

There is no legislative compliance applicable to the proposal at this stage. Approval will be sought through the appropriate channels for modifications to heritage buildings if required.

Delegation of Authority

The Chief Executive Officer does not have the delegated authority to undertake actions required by the recommendation listed in this report.

Relevant Precedents

There are no relevant precedents.

Options

Option 1

Per the recommendations listed in the report and in the Agenda Item.

Option 2

Not to accept the recommendations listed in this report and in the Agenda Item.

Conclusion

The City of Bunbury contracted Mulloway Studio to examine and make recommendations on the feasibility of establishing a local Bunbury Museum. The final report submitted to the City after consultation with the public and key stakeholders and consideration of relevant sites and information, provides a solution which utilises both sites included in the study.

The recommendation is for a split-site Museum to be established in consultation with the Bunbury Historical Society, with gallery spaces at the Paisley Centre and with conservation and storage at King Cottage, which would remain a heritage site / "house museum".

Recommendation

1. The Mulloway Studio study be accepted and noted.
2. Council endorses the concept of the establishment of a local Bunbury Museum.
3. A split-site local Bunbury museum be established, in consultation with the Bunbury Historical Society, with the gallery spaces of the Museum at the Paisley Centre and conservation and storage facilities at King Cottage which would remain a heritage site / "house museum".
4. Council consider the provision of adequate funding in the 2010/11 budget for the appointment of a full time curator and part time administration assistant (approximately \$115,000 as per report but for $\frac{3}{4}$ year plus activity costings) to work in consultation with the Bunbury Historical Society in both:
 - a. preparing for the establishment of a local museum (e.g recommending a collections policy, conservation policy and possible themes); and
 - b. improving the existing King Cottage Museum.
5. Council consider the provision of adequate funding in the 2010/11 budget for design costs associated with the planning for a local Bunbury Museum (\$236,500 as per report i.e. \$226,000 for Paisley Centre and \$10,500 for King Cottage)
6. A local museum steering committee be established for the development phase of the museum. Terms of reference and suggested membership for this committee to be recommended by the Executive Manager, City Life and referred to Council for consideration.

Outcome - Council Committee Meeting 20 April 2010

The Mayor asked if there was anyone from the public that wish to speak to this item.

Ms Phyllis Barnes, King Cottage Museum, addressed the Committee and stated that she has been involved with the King Cottage Museum for a number of years. She has been involved with Museums in other areas and feels that she has a fair working knowledge of how a Museum should be run. She is disappointed with the parameters

of the study. She believes that the Paisley Centre would not make an ideal Museum and she would like to see it used more as a history centre where people could learn the history of Bunbury. There could be permanent displays of non-sensitive items and interactive panels.

King Cottage has been in operation since 1966. There is a need for a new museum building and that way King Cottage can be used to run workshops. A curator needs to be appointed to help with the identification of the items suitable for a collection. She doesn't believe that the King Cottage collection should be just handed over to the City as there has been a lot of work done by the current and past volunteers in maintaining authentication of the items.

Mr Bernard Bischoff, 15 Forster Street Bunbury, addressed the Committee stating that he was against the recommendation. He raised the following points:

- The Paisley Centre is not big enough for a Museum and is a Heritage building.
- There needs to be a Museum Committee established in order to seek better alternatives
- Not happy with it being a local Museum. It should not have restrictions placed on it.
- He would like to see Bunbury as a leader in history education. We should move with the technology
- Believes that the recommendation is premature and could cause unnecessary dangers
- There is not enough parking available as it would encroach into the Centrepoint Shopping Centre car parking.

Stefan Whiteside, Principal Bunbury Dance Studio (current lessee of Paisley Centre), addressed the Committee and was available for any questions. He stated that he was not against the idea of the Museum. He was asked what his lease term was and he responded by saying that he had a five (5) year plus a further five (5) years lease but unfortunately had let it lapse and was now in a holding over clause. He stated that he has been looking for an alternate venue but so far he was not successful. Ballroom dancing requires 100m² of floor space. He has 130 plus participants with a staff of five (5) volunteers.

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

Cr Steck moved procedural motion 15.9 of the City of Bunbury Standing Orders, that the motion 'lie on the table' until a further feasibility study can be done. The Mayor put the motion to the vote – 6 votes "for" / 6 votes "against" the Mayor used his casting vote to vote against the motion. Therefore the procedural motion was LOST.

At this point in proceedings Deputy Mayor Cr Kelly left (9.20pm) the chambers and was not present for the vote. Cr Steck left (9.21pm) the chambers and was not present for the vote.

Cr Harrop asked the mover and seconder to agree to amending item 4 (b) to read "...advice and curatorial assistance for King Cottage Museum and other historical groups in Bunbury..." The mover and seconder agreed to the amendment.

It was requested that the motion be voted on separately and adopted to become the Committee's recommendation on this issue. The results are as follows

Item 1:	10 votes "for" / Nil votes "against" CARRIED
Item 2:	8 votes "for" / 2 votes "against" CARRIED
Item 3:	4 votes "for" / 6 votes "against" LOST
Item 4:	7 votes "for" / 3 votes "against" CARRIED
Item 5:	6 votes "for" / 4 votes "against" CARRIED
Item 6:	7 votes "for" / 3 votes "against" CARRIED

Committee Recommendation

1. The Malloway Studio study be accepted and noted.
2. Council endorses the concept of the establishment of a local Bunbury Museum.
3. Council consider the provision of adequate funding in the 2010/11 budget for the appointment of a full time curator and part time administration assistant (approximately \$115,000 as per report but for $\frac{3}{4}$ year plus activity costings) to work in consultation with the Bunbury Historical Society in both:
 - a. preparing for the establishment of a local museum (e.g recommending a collections policy, conservation policy and possible themes); and
 - b. advice and curatorial assistance for King Cottage Museum and other historical groups in Bunbury
4. Council consider the provision of adequate funding in the 2010/11 budget for design costs associated with the planning for a local Bunbury Museum (\$236,500 as per report i.e. \$226,000 for Paisley Centre and \$10,500 for King Cottage)
5. A local museum steering committee be established for the development phase of the museum. Terms of reference and suggested membership for this committee to be recommended by the Executive Manager, City Life and referred to Council for consideration.

Outcome - Council Meeting 27 April 2010

Cr Harrop disclosed (refer to section 7 of these minutes) an impartiality interest in this item as she is a member and volunteer of King Cottage Museum. Her interest is trivial in nature and therefore she will stay, participate in discussion and vote on the matter.

The above mentioned recommendation from the Council Standing Committee was moved Cr Slater, seconded Cr Punch, in the following amended format:

1. *The Malloway Studio study be received and noted.*
2. *Council endorses the concept of the establishment of a Bunbury Museum.*

3. Council consider the provision of adequate funding in the 2010/11 budget for the appointment of a full time curator and part time administration assistant (approximately \$115,000 as per report but for ¾ year plus activity costings) to work in consultation with the Bunbury Historical Society in both:
 - a. preparing for the establishment of a museum (e.g recommending a collections policy, conservation policy and possible themes); and
 - b. advice and curatorial assistance for King Cottage Museum and other historical groups in Bunbury
4. Council consider the provision of adequate funding in the 2010/11 budget for design costs associated with the planning for a Bunbury Museum
5. A Bunbury museum steering committee be established for the development phase of the museum. Terms of reference and suggested membership for this committee to be recommended by the Executive Manager City Life and referred to Council for consideration.

Cr Craddock moved, Deputy Mayor Cr Kelly (pro forma) seconded an amendment to include an item 6 to the recommendation as follows:

6. *A split-site local Bunbury museum be established, in consultation with the Bunbury Historical Society, with the gallery spaces of the Museum at the Paisley Centre and conservation and storage facilities at King Cottage which would remain a heritage site / "house museum"*

During discussion, Cr Steck moved procedural motion 15.4 of the City of Bunbury Standing Orders that the "amendment" be now put. The Mayor put the procedural motion to the vote and was CARRIED 10 votes "for" / 1 vote "against".

The Mayor put Cr Craddock's amendment to the vote and was LOST 3 votes "for" / 8 votes "against". It was requested that the votes be recorded as follows:

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

Cr Harrop moved, Cr Punch seconded (pro forma) a further amendment as follows:

6. *That Council investigate both Lot 4 and part of the old St John of God Hospital sites for a Museum in Bunbury...*

The Mayor put the sites to vote separately.

Lot 4: 5 votes "for" / 6 votes "against" LOST
St Johns: 2 votes "for" / 9 votes "against" LOST

Cr Slater moved, Cr Harrop seconded (pro forma) a further amendment as follows:

6. *That the previously selected 3 Waters area on Lots 882 & 883 opposite the Dolphin Discovery Centre, be the site for a combined visitor centre/museum complex...*

During discussion, Cr Steck moved procedural motion 15.9 of the City of Bunbury Standing Orders that Cr Slater/Cr Harrop's amendment "lie on the table" and be referred to the Bunbury Museum Committee should it be passed. The Mayor put the procedural motion to the vote and was CARRIED 10 votes "for" / 1 vote "against".

The discussion continued on the Cr Slater/Cr Punch amended recommendation.

Cr Steck moved procedural motion 15.4 of the City of Bunbury Standing Orders that the "motion be now put". The Mayor put the procedural motion to the vote and was CARRIED 9 votes "for" / 2 votes "against".

The Mayor put Cr Slater/Cr Punch's amended recommendation to the vote in separate parts. The results were adopted to become Council's decision on this matter:

Item 1:	11 votes "for" / Nil votes "against"	CARRIED
Item 2:	8 votes "for" / 3 votes "against"	CARRIED
Item 3:	11 votes "for" / Nil votes "against"	CARRIED
Item 4:	8 votes "for" / 3 votes "against"	CARRIED
Item 5:	10 votes "for" / 1 vote "against"	CARRIED

Council Decision 68/10

1. *The Mulloway Studio study be received and noted.*
2. *Council endorses the concept of the establishment of a Bunbury Museum.*
3. *Council consider the provision of adequate funding in the 2010/11 budget for the appointment of a full time curator and part time administration assistant (approximately \$115,000 as per report but for ¾ year plus activity costings) to work in consultation with the Bunbury Historical Society in both:
 - a. *preparing for the establishment of a museum (e.g. recommending a collections policy, conservation policy and possible themes); and*
 - b. *advice and curatorial assistance for King Cottage Museum and other historical groups in Bunbury**
4. *Council consider the provision of adequate funding in the 2010/11 budget for design costs associated with the planning for a Bunbury Museum*
5. *A Bunbury museum steering committee be established for the development phase of the museum. Terms of reference and suggested membership for this committee to be recommended by the Executive Manager City Life and referred to Council for consideration.*

11.14 Proposed Three Storey Office Development – Lot: 2 and Lot: 3 (No. 3) Hales Street, Davenport *(was listed as item 11.15 on the meeting agenda)*

File Ref:	P03988
Applicant/Proponent:	Hassell Pty Ltd
Author:	Paul Davies, Planning Consultant
Executive:	Geoff Klem, Executive Manager City Development

Summary

An application has been received from Hassell Pty Ltd with subsequent correspondence from Thompson McRobert Edgeloe Planning Consultants on behalf of Perkins Builders for development of a three storey Office Building for the existing Builders Yard at Lots 2 and 3 Hales Street, Davenport.

The application proposes to demolish an existing building which totals approximately 336m² and includes the single storey office building (230m² office) and covered parking areas on the site and construction of a new three storey office building with a total floor area of 1118m².

The applicant advises that the proposed building comprises reception, meeting and training areas, space for project documentation, assembly and distribution, storage of site equipment, survey equipment, uniforms and safety consumables, lunchrooms and amenities for office and site workers, executive management space, space for contract administration of the building operations and space for project archiving.

Further, the applicant advises that the proposal will provide a necessary administration centre for Perkins Builders that promotes the character and amenity of the area and that the proposal is consistent with Town Planning Scheme No. 7 definition for industry and represents an incidental use that benefits the operation of the predominant industrial uses on the site.

The use class office is an "X" use (not permitted) in the "industry" zone. However, in accordance with Clause 4.13 of Town Planning Scheme No.7 Council may approve an incidental use on the site, providing that the use is considered subordinate and ancillary to the predominant use of the site and such uses may include;

"(b) Offices directly associated with administration of the predominant use'.

The applicants have submitted a legal opinion from Lavan Legal which concludes that the proposed office development can be supported as incidental to the predominant use of the site for industrial purposes. (Refer to Attachment 4 in report issued **under separate cover**). This opinion is based on:

1. The definition of Industry – General providing for "the work of administration or accounting"
2. The provision of amenities for employees, incidental to any of those industrial operations
3. All office activities proposed on the site relate directly to use of the site;

4. The total site is 8114m² and the office building has a footprint of 327m² and total floor space of 1118m².

A Legal Opinion obtained for the City from McLeods Barristers and Solicitors advises that they do not agree with the reasoning provided by Lavan Legal. Further, *“as the use office is not permitted in the industry zone, their advice must be that the Council would not be able to give planning approval to the proposed development”*.

Whilst the argument presented by the proponent is acknowledged, the proposed new office development with a total floor area of 1118m² is the opinion of Development Services not considered ancillary or subordinate to the predominant industrial use of the site. It is recommended that Council refuse the application for a three storey office building in the Industry zone for the following reasons:

1. The proposed office use is “X” (not permitted) in the “Industry” zone under the City of Bunbury, Town Planning Scheme No.7
2. The proposed significant floor area of the proposed office building exceeds the requirements and general principles for incidental and ancillary office use under the City of Bunbury, Town Planning Scheme No.7.
3. The proposed development is inconsistent with Clause 4.1.18 of the Western Australian Planning Commission, Interim Greater Bunbury Region Commercial Centres Strategy which states that “major office developments such as corporate head offices or multi storey offices should be located in the Bunbury Central Business District”.
4. The proposed development is inconsistent with Clause A3.2.1 of the Western Australian Planning Commission, Interim Greater Bunbury Region Commercial Centres Strategy which states that “Office uses in industrial areas will be permitted providing they are ancillary to the functions carried out in factory or warehouse premises”.
5. The proposal conflicts with the objective of the City of Bunbury, Commercial Strategy to promote and enhance the CBD as the prime retail, office, administration, entertainment, governance and civic centre for Bunbury and the South West Region.
6. The proposed development conflicts with Clause 10 parts (a) aims and provisions of the scheme (b) orderly and proper planning (i) compatibility of use in its setting, (n) preservation of amenity, (o) relationship to adjoining development and (q) traffic generation under the City of Bunbury, Town Planning Scheme No.7.
7. Approval of the proposed office development will create an undesirable precedent for further office development in the Industry area.

Background

The overall site is currently developed with approximately 1500m² of workshop buildings and two office buildings with areas of approximately 336m² and 120m² respectively (total area of approximately 456m²).

There is also, located on the site a temporary transportable office building with an area of approximately 160m² which currently does not have planning approval. The balance of the site is generally used for outdoor storage of building materials and supplies. Attachment 1 (in report issued under separate cover) aerial photograph indicates the current development on the site with the exception of the transportable building.

Proposal

An application has been received from Hassell Pty Ltd with subsequent correspondence from Thompson McRobert Edgeloe Planning Consultants on behalf of Perkins Builders for development of a three storey Office Building for the existing Builders Yard at Lots 2 and 3 Hales Street, Davenport.

The proposed new office development has a total area of 1118m². The applicant advises that the intended operation of the proposed office development includes reception, meeting and training areas, space for project documentation, assembly and distribution, storage of site equipment, survey equipment, uniforms and safety consumables, lunchrooms and amenities for office and site workers, executive management space, space for contract administration of the building operations and space for project archiving.

It is proposed to demolish the existing single storey office building and temporary office located adjacent to the existing workshops to be replaced with the new three storey building. The applicants advise that it is proposed to amalgamate the two existing lots to create a single lot to accommodate the proposed development.

The proposal shows an additional nineteen (19) car parking bays to provide a total of 40 bays in accordance with Town Planning Scheme No. 7 requirements.

The applicants advise that the business currently employs a total of twenty-nine (29) staff at the site with the proposed office to accommodate the eighteen (18) existing office workers on the site. The proponent advises that the proposed office use is necessary to upgrade the existing incidental office use on the site and does not compromise the industrial use of the site.

The applicants also advise that the site has an existing total area of 8120m² and the proposed office building with a footprint of 325m² equates to 4% of the site area. The proponent advises that the 4% of the site for office use is clearly not a major or dominant use and 96% of the site will be utilised for industrial purposes.

Further, the proponent suggests that the entire office building over three floors comprises 1118m² which is only 13% of the overall site area.

Attachment 2 (in report issued under separate cover) includes site plan, floor plans and elevations of the proposed office building.

Discussion

The use class office has been determined by Development Services as an "X" use (not permitted) in the "Industry" zone. In accordance with Clause 4.13 of Town

Planning Scheme No. 7 Council may, however, approve an incidental use on the site, providing that the use is considered subordinate and ancillary to the predominant use of the site and such uses may include;

“(b) Offices directly associated with administration of the predominant use”

The applicant advises the following is a summary of the uses of different areas of the proposed building:

- Office – dedicated to office personnel 405m²
- Circulation – general ambience of space 281m²
- Company Areas – to be used for specific storage/training/lunch/activities directly associated with the industrial business 242m²
- Contact Areas – to be used 41m²
- Service Areas – Lift/wet areas 102m²

While the need for the expansion of the existing facilities to accommodate the necessary functions of the operations is understood and that the applicant maintains that the uses within the proposal correlate directly with the industry use on site. The proposed new office development is not considered by Development Services to be ancillary or subordinate to the predominant industrial use of the site.

The subject land is predominantly used for a Builders yard and workshops. The overall site is currently developed with approximately 1500m² of workshop buildings and includes two office buildings with areas of approximately 336m² and 120m² respectively (total area of approximately 456m²).

While the proponent has clearly indicated that the proposed office is to accommodate existing office workers and administration there is some concern that the proposed office building could accommodate significant future increases in office staff which would further reduce the incidental nature of the office use.

The proposed development is inconsistent with Clause 4.1.18 of the Western Australian Planning Commission, Interim greater Bunbury Region Commercial Centres Strategy which states that *“...major office developments such as corporate head offices or multi storey offices should be located in the Bunbury Central Business District”*.

The proposed development is inconsistent with Clause A3.2.1 of the Western Australian Planning Commission, Interim Greater Bunbury Regional Commercial Centres Strategy which states that *“...Office uses in industrial areas will be permitted providing they are ancillary to the functions carried out in factory or warehouse premises”*.

Also, it is considered that the development of significant office developments in the Industry zone conflicts with the objective of the City of Bunbury, Commercial Strategy which is to promote and enhance the CBD as the prime retail, office, administration, entertainment, governance and civic centre for Bunbury and the South West Region.

The large size of the proposed office use could also create an undesirable precedent for other significant office development which has the potential to impact on the viability and primacy of the CBD and Shopping Centre zones for office use.

The proposed development is located opposite an existing residential area which is predominantly single storey. The surrounding industrial uses include some similar height Industrial Shed buildings, however, office uses are generally single storey and industrial buildings are well setback from the street.

The applicants have requested a reduced front setback from 9m to 6.25m for the proposed third floor balcony of the building and have argued that given the high quality finishes of the building, the presentation of the building to the street, the good surveillance of the public realm and improvements to the site address and the fact that the proposed amalgamation of Lots 2 and 3 will average the front setback to 9.34m the proposed variation to the front setback can be supported.

However, it is considered by Development Services that the proposed building height could detract from the single residential nature of the adjoining residential area. The applicants advise that they have undertaken consultation with residential property owners along Hales Street. They advise that out of nine (9) residents approached eight (8) have responded and only one objected to the proposal.

The applicants advise that seven residents supported the proposal of which two showed conditional support suggesting that;

1. The work hours be regulated
2. That Hales Street be converted to a cul de sac at the northern end; and
3. The outside materials of the building not to create glare.

The objection received is based on the proposed building being out of scale with the surrounding area. Attachment 3 (in report issued **under separate cover**) includes photo montages showing the proposed building in the streetscape.

Legal Opinion

The applicants have submitted a legal opinion from Lavan Legal which suggests that the proposed office development can be supported as incidental to the predominant use of the site for Industrial purposes. Attachment 4 (in report issued **under separate cover**) includes a copy of the legal opinion from Lavan Legal.

The applicant's legal opinion suggests that the proposed development is incidental for the following reasons;

1. *The proposed office or administration activities are dependent upon the industrial activities.*
2. *The proposed office use is a necessary upgrade of the existing office use on the site and does not compromise the operation of the site as an industrial use or change the nature of the business conducted on the site.*

3. *The proposed office footprint covers an area of 325m² which equates to 4% of the area; and*
4. *The entire floor space over three floors comprises 1,118m² being 13% of the total floor space onsite”.*

A Legal Opinion obtained for the City from McLeods Barristers and Solicitors advises that they do not agree with the reasoning provided by Lavan Legal as outlined above. In accordance with the definition of Industry under Town Planning Scheme No. 7 possibility of office use for the work of administration or accounting would only be those necessary for the administration and accounting staff for the industrial process on the site.

“The proposed 1,118m² floor area office building is clearly intended as the administration offices of the Perkins builders business, and it is likely that only a relatively small proportion if any, of that floor area would be devoted to the administration and accounting services for the existing operations on the site”.

Further *“as the use office is not permitted in the industry zone, their advice must be that the Council would not be able to give planning approval to the proposed development”.* *“If the office use had been permissible in the industry zone in the discretion of the Council, then the Council would be entitled to consider the appropriateness of the proposed development”.*

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”.* In this case, the proposal has been considered in the context of the compliance with current Scheme and has been assessed against the relevant planning policies.

Community Consultation

The applicants advise that they have undertaken consultation with residential property owners along Hales Street. They advise that out of 9 residents approached 8 responded and only one objected to the proposal.

Seven residents supported the proposal, two of which showed conditional support suggesting that;

1. the work hours be regulated
2. that Hales Street be converted to a cul de sac at the northern end; and
3. the outside materials of the building not to create glare.

The objection received is based on the proposed building being out of scale with the surrounding area.

Councillor/Officer Consultation

This matter has been received by Council staff within the Development Coordination Unit meetings consisting of officers from Engineer, Planning, Building and Health. Further discussions have taken place with Manager Development Services, Senior Planner (Statutory) and Executive Manager City Development.

Analysis of Financial and Budget Implications

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

Economic, Social, Environmental and Heritage Issues

In economic terms, the proposal will provide economic benefit during the construction phase of the development and also future employment opportunities in the proposed building. The proposal will provide for social opportunities for staff members. There are no significant and environmental impacts of the development.

Council Policy Compliance

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

Legislative Compliance

The application has been assessed in regard to the requirements of the City of Bunbury, Town Planning Scheme No. 7.

Delegation of Authority

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

Relevant Precedents

There are no known relevant precedents in respect of the specific matter being considered by Council.

Options

Option 1

Per the recommendation printed in this report to Council.

Option 2

Council, resolve under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 to approve the development application lodged by Hassell Pty Ltd on behalf of Perkins Builders for development of a three storey office building at Lots 2 and 3 Hales Street. Davenport subject to appropriate development conditions to the satisfaction of the Manager Development Services.

Conclusion

The use class office is "X" not permitted in the "Industry" zone. In accordance with Clause 4.13 of Town Planning Scheme No.7 Council may, however, approve an incidental use on the site, providing that the use is considered subordinate and ancillary to the predominant use of the site and such uses may include;

"(b) Offices directly associated with administration of the predominant use".

Whilst Development Services can appreciate the argument provided by the applicant in regard to the proposal and the proposed operations, the current proposed new office development cannot be considered ancillary or subordinate to the predominant industrial use of the site and therefore should be refused.

Recommendation

Council resolve under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 to refuse the development application lodged by Hassell Pty Ltd on behalf of Perkins Builders for development of a three storey office building at Lots 2 and 3 Hales Street Davenport for the following reasons;

1. The proposed office use is "X" (not permitted) in the Industry zone under the City of Bunbury Town Planning Scheme No.7
2. The proposed significant floor area of the proposed office building exceeds the requirements and general principles for incidental and ancillary office use under the City of Bunbury Town Planning Scheme No.7
3. The proposed development is inconsistent with Clause 4.1.18 of the Western Australian Planning Commission Interim Greater Bunbury Regional Commercial Centre Strategy which states that "major office developments such as corporate head offices or multi storey offices should be located in the Bunbury Central Business District"
4. The proposed development is inconsistent with Clause A3.2.1 of the Western Australian Planning Commission Interim Greater Bunbury Region Commercial Centres Strategy which states that "Office uses in industrial areas will be permitted providing they are ancillary to the functions carried out in factory or warehouse premises"
5. The proposal conflicts with the objective of the City of Bunbury Commercial Strategy to promote and enhance the CBD as the prime retail, office, administration, entertainment, governance and civic centre for Bunbury and the South West Region
6. The proposed development conflicts with Clause 10 parts (a) aims and provisions of the scheme (b) orderly and property planning, (i) compatibility of use in its setting, (n) preservation of amenity, (o) relationship to adjoining development and (q) traffic generation under the City of Bunbury Town Planning Scheme No.7

7. Approval of the proposed office development will create an undesirable precedent for further office development in the Industry area.

Outcome - Council Committee Meeting 20 April 2010

Cr Jones disclosed a proximity interest in this item as she is the Chairperson of the Bunbury Cemetery Board (adjoining business). She will stay, participate in the discussion and vote on this matter.

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

Mr Stuart Thompson, TME Planning Consultants (on behalf of Perkins Builders) addressed the Committee and stated that he was against the recommendation. He believes that the general belief of council staff is that the building is too large for the site. The site is a total of 8,000m², the proposed building will take up 300m² (4% of the site) and the total floor space will be 1,000m². The building will consist of the reception area, training room, board/conference room, storage of equipment and storage of sensitive documents. Perkins have built similar buildings in other councils. As Mr Thompson is familiar with making presentations to Council, the project was put out for community consultation. Of the nine (9) residents approached, five (5) were in complete accord, two (2) had concerns about limiting the construction hours (which have been addressed), one (1) was totally against and one (1) did not respond.

The building industry is changing and Perkins needs to improve their facilities in order to stay competitive. There is no available alternative for Perkins to build in the CBD.

Cr Steck moved, Cr Leigh moved option 2 (as printed).

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

Option 2

Council, resolve under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 to approve the development application lodged by Hassell Pty Ltd on behalf of Perkins Builders for development of a three storey office building at Lots 2 and 3 Hales Street. Davenport subject to appropriate development conditions to the satisfaction of the Manager Development Services.

Outcome - Council Meeting 27 April 2010

Cr Jones disclosed a proximity interest in this item as she is the Chairperson of the Bunbury Cemetery Board (adjoining business). She will stay, participate in the discussion and vote on this matter.

The recommendation (as printed) from the Council Standing Committee was moved Cr Jones, seconded Deputy Mayor Cr Kelly.

The motion (as printed) was put to the vote and adopted to become Council's decision on this matter.

Council Decision 69/10

Council, resolve under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 to approve the development application lodged by Hassell Pty Ltd on behalf of Perkins Builders for development of a three storey office building at Lots 2 and 3 Hales Street. Davenport subject to appropriate development conditions to the satisfaction of the Manager Development Services.

CARRIED

11 Votes "For" / Nil Votes "Against"

11.15 Policy Review and Development (Standing) Committee Recommendations to Council *(was listed as item 11.8 on the meeting agenda)*

File Ref:	A04051
Applicant/Proponent:	Internal Report
Author:	Jack Dyson, Senior Administration Officer
Executive:	Greg Trevaskis, Chief Executive Officer

Summary

At the inaugural meeting of Council's "Policy Review and Development (Standing) Committee" held on Wednesday 24 March 2010, the following two (2) recommendations to Council were moved:

1. "That a "Legal Representation for Council Members and Employees Policy" be prepared for referral to this committee for consideration before being submitted to Council for adoption. Such policy to be based on the "Model Policy" contained in Department of Local Government Guideline number 14"; and
2. "That the Western Australian Local Government Association be invited to attend the City of Bunbury and present their training Module "Policy Development" to all elected members and interested staff."

Background

The Policy Review and Development (Standing) Committee was formed by Council resolution on 15 December 2009 and conducted its inaugural meeting on Wednesday 24 March 2010.

At the inaugural meeting a number of matters were discussed and committee members consider that the aforementioned recommendation to Council will prove beneficial to the organisation.

Strategic and/or Regional Outcomes

This proposal complies with Council's current Strategic Plan, Strategic Objective 2, Strategy 2.2, deliverable that states; *"Provide an appropriate level of induction to newly elected members and an ongoing program of professional development for Councillors and Executive"*.

Community Consultation

There is no need for community consultation on this proposal.

Councillor/Officer Consultation

Committee Members, the Chief Executive Officer and the Senior Administration Officer are aware of these proposals.

Analysis of Financial and Budget Implications

The provision of a WALGA in house training course can be catered for from within existing budget provisions. A maximum number of fifteen (15) participants are able to be accommodated to each in house training course,

Economic, Social, Environmental and Heritage Issues

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

Council Policy Compliance

There is no current Council Policy relating to this item.

Legislative Compliance

The process of seeking Council endorsement of committee recommendations complies with the requirement of the Local Government Act and Associated Regulations.

Delegation of Authority

The Chief Executive Officer does not have specific delegated authority to approve committee recommendations.

Relevant Precedents

No relevant precedents identified at time of preparing this item.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Not to proceed with the recommendations from the Committee.

Conclusion

The provision of training in Policy Development for elected members is seen as beneficial in achieving outcomes and objectives of Councils current Strategic Plan.

Recommendation

That Council adopt the recommendations from the Policy Review and Development (Standing) Committee in:

1. That a "Legal Representation for Council Members and Employees Policy" be prepared for referral to this committee for consideration before being

submitted to Council for adoption. Such policy to be based on the "Model Policy" contained in Department of Local Government Guideline number 14; and

2. That the Western Australian Local Government Association be invited to attend the City of Bunbury and present their training Module "Policy Development" to all elected members and interested staff.

Outcome - Council Committee Meeting 20 April 2010

At this point in the proceedings (10.34pm) Cr Major requested that he be excused for the remainder of the meeting and left the chambers. He was not present for voting on any other items.

The recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr Whittle.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

That Council adopt the recommendations from the Policy Review and Development (Standing) Committee in:

1. That a "Legal Representation for Council Members and Employees Policy" be prepared for referral to this committee for consideration before being submitted to Council for adoption. Such policy to be based on the "Model Policy" contained in Department of Local Government Guideline number 14; and
2. That the Western Australian Local Government Association be invited to attend the City of Bunbury and present their training Module "Policy Development" to all elected members and interested staff.

Outcome - Council Meeting 27 April 2010

The recommendation (as printed) from the Council Standing Committee was moved Deputy Mayor Cr Kelly, seconded Cr Steck.

The motion was put to the vote and adopted to become the Council's decision on this matter.

(Full Council decision shown overleaf)

Council Decision 70/10

That Council adopt the recommendations from the Policy Review and Development (Standing) Committee in:

1. *That a "Legal Representation for Council Members and Employees Policy" be prepared for referral to this committee for consideration before being submitted to Council for adoption. Such policy to be based on the "Model Policy" contained in Department of Local Government Guideline number 14; and*
2. *That the Western Australian Local Government Association be invited to attend the City of Bunbury and present their training Module "Policy Development" to all elected members and interested staff.*

CARRIED

11 Votes "For" / Nil Votes "Against"

11.16 Motion on Notice – Free Parking for Bunbury Regional Entertainment Centre Volunteers *(was listed as item 11.17 on the meeting agenda)*

File Ref:	A00217
Applicant/Proponent:	Councillor Alfred Leigh
Author:	Councillor Alfred Leigh
Executive:	<i>If adopted by Council refer to:</i> Geoff Klem, Executive Manager City Development

Cr Leigh has given notice that he intends to move the following motions at the Council Committee Meeting on 20 April 2010:

- "1. Free parking arrangements for the volunteers of Bunbury Regional Entertainment Centre should be reinstated immediately*
- 2. Joint proposal with the BREC to make good the parking arrangements for all volunteers who serve the Bunbury Regional Entertainment Centre, Bunbury WA*
- 3. Review and special amendment on the Parking Policy for BREC volunteers"*

Comments - Cr Leigh

In support of his/her motion, Cr Leigh states that, "I have received a letter and an email from the Bunbury Regional Entertainment Centre (BREC), Bunbury WA. After going through the contents I have noted the following points:

1. Bunbury Regional Entertainment Centre runs on volunteers
2. The volunteers work shifts with a minimum of three (3) to four (4) hours
3. Many of the volunteers are seniors and pensioners
4. In a full house there are approximately twenty-three (23) volunteers and the minimum if fifteen (15) volunteers
5. The volunteers use their own vehicles and fuel
6. The passion of the volunteers is incredible and they have been trained with various skills

I am of the view that if the above Free Parking Arrangements is not reinstated immediately, there will be a drop out of volunteers and the goodwill of this great community will be lost. There will be an added burden and stress to the BREC Management to run the premises in an efficient manner. How will they achieve the same if they have a decline in volunteers? I was made to understand that there was 667 shifts last year; can you imagine the amount of hours that were volunteered?"

Executive Comments

A number of changes to the parking arrangements in Bunbury have occurred since the beginning of the calendar year as a result of the implementation of the City's Central Business District Parking Strategy. This Strategy is a holistic approach to parking and is critical to the continued success and viability of the CBD.

The Strategy commenced with the appointment of a Parking Coordinator to oversee parking and then introduction in January of the Visitor/Shopper car parking. These car parks provide patrons two hours of free parking and the option of extending that stay period through the payment of an incrementally increasing tariff. These car parks are strategically located and intended for the use of visitors and shoppers coming into the City.

To coincide with the introduction of the Visitor/Shopper car parks, a number of other car parks which are located around the edges of the CBD have been established to provide patrons with an option of an hourly and/or fixed daily rate. These car parks are located within close proximity to the CBD and provide parking for those patrons requiring long term or all day parking.

The second stage of the Strategy will be the implementation of on-street parking ticket machines. The revenue from these machines, combined with that from the off-street car parks will provide dedicated funding which will enable the City to refurbish car parks and develop further car parking capacity.

The implementation of on-street parking machines in May 2010 will have a direct impact on the dynamics of CBD parking and the occupancy levels in some of the Visitor/Shopper carparks. Although the occupancy rate in some of the Visitor/shopper carparks is not currently high, this situation is expected to change noticeably with the introduction of the on-street machines.

Throughout the implementation of the Strategy, investigation and consideration of current parking concessions allowed by the City and other informal concessional arrangements has been undertaken. This consideration included the number of concessions allocated, when the concessions applied, who the concessions were allocated to and the reason why a concession was granted.

One of the changes implemented to ensure available space within the Visitor/Shopper carparks involved relocation of Council staff from the Wittenoom Street (shoppers) carpark to the all-day carparks located on the edges of the CBD such as the Blair Street foreshore and the Parkfield Street carparks. This move was intended primarily to improve the availability of parking for shoppers.

Although the City recognises the invaluable service provided by all of the volunteer groups within the community, it needs to be recognised that whenever a vehicle with a concession occupies a parking bay, there is a direct impact on available parking for paying patrons. Although it could be argued that individually any loss of revenue is not great, when this loss is calculated over the number of concessions that are issued, the actual loss is much greater.

To ensure that the concessions provided to volunteer groups are correctly accounted for and the parking reserves are not disadvantaged by a reduction in revenue, the issue of these concessions need to be appropriately managed.

A single example of such a disadvantage is the presence of the breast screening van in a Wellington Street car park. The Breast screening van which occupies 10 car parking bays within the car park for a period of twelve months accounts for a loss of available parking space and a loss of income of approximately \$10,300.

In the instance of the BREC club, a formal permit system was never implemented however an arrangement had been established whereby BREC Club members could display their membership card on the dashboard of their respective vehicles to avoid the requirement to purchase a ticket in that car park.

Because this arrangement had never been actually formalised, BREC were advised that the concession in this form would cease and that should BREC wish to provide its volunteers a concessional parking arrangement, this would be considered favourable by the City and could include the purchase of parking permits either directly or via the transfer of funds into the parking budget. This would therefore mean that any subsidy/contribution provide by the City to BREC for their car parking needs would be accurately recorded and accountable.

Council provided a financial contribution to BREC of \$505,000 for the 2009/2010. This was made up of –

Operating Grant	\$316,725
Capital Grant	\$70,000
Grounds Maintenance	\$32,400
Building Maintenance	\$86,801
Total contribution	\$505, 926

What is not captured and is required to be captured is the cost of the actual car parking concession provided for car parking. The car parking concessions are a real cost and therefore considered another further contribution that Council makes to BREC.

It has never been stated or indicated to BREC that BREC Club volunteers could not be provided with concessional parking. What has been stated is that the arrangement would need to be formalised and the cost of concessional car parking that is provided to BREC would need to be added or deducted to the overall contribution that Council provided to BREC. The contribution for any concessional car parking would then be paid into the Car Parking Reserve Fund.

In conclusion, the success of the CBD Parking Strategy relies on the availability of conveniently located parking in the Visitor/shopper carpark of which the entertainment centre is one and the available funding for the refurbish of existing carparks and the development of new ones.

Although the occupancy level of this carpark may appear low currently, with the introduction of on-street ticket machines the Visitor/Shopper carparks which offers two hours of free parking are set to become a sought after facility.

It would therefore be preferable to wait until after the introduction of the on-street machines to see how the dynamics of the CBD parking changes prior to conceding any concessions in the Visitor/Shopper carparks.

Cr Leigh's Motions

1. Free parking arrangements for the volunteers of Bunbury Regional Entertainment Centre Club should be reinstated immediately

2. Joint proposal with the BREC Club to make good the parking arrangements for all volunteers who serve the Bunbury Regional Entertainment Centre, Bunbury WA
3. Review and special amendment on the Parking Policy for BREC Club volunteers

Outcome - Council Committee Meeting 20 April 2010

Cr Leigh disclosed an interest in this item as he and his wife Linda are members of the BREC Club and volunteer the services on occasion. He will stay, participate in the discussion and vote on the matter.

The Motion on Notice (as printed) was moved Cr Leigh, seconded Cr Craddock.

The Mayor asked if there was any members of the public that would like to speak to the item

Ms Nan Martella, President of the BREC Club volunteers addressed the Committee. During the discussion the following points were raised:

- Previously members of the BREC Club volunteers were given membership cards to place in the windows of their cars.
- Most of the volunteers are pensioners and elder members of the community
- In 2009 there were 688 day shifts from the volunteers
- During the 2009 Eistedford there were 633 shifts handled by the volunteers. The Eistedford is one of the major events that are held at the Bunbury Entertainment Centre.
- On a full day there are 23 volunteers rostered on.
- During the Eistedford the volunteers are rostered on for shifts from 4 hours to 5 hours and are rotated.
- The volunteers need to be there one (1) hour and ten (10) minutes prior to the start of the events and at least one (1) hour and fifteen (15) minutes after the events. There is no time for the volunteers to be able to go out to their cars and increase their parking should their tickets run out before the event is over.
- The volunteers are placed on a roster system and it is strictly monitored.
- There has never been a breach of the previous parking permit system
- The volunteers are after the reinstatement of the previous system.

Mr Brian Price, Chairman Bunbury Seafarers, addressed the Committee and stated that while he is not directly involved with the BREC Club he has a similar issue with the parking allocation for the bus that the Seafarers volunteers operate. There is no designated area for the bus and to be able to unload their passengers they have to block up the traffic lanes on Victoria Street. He has made an approach to the City of Bunbury about getting an extension to the bus parking times for the hours of their operation between 1pm and 5pm. The City of Bunbury Parking Coordinator stated that a response will be issued in the near future.

Manager Community Law and Safety addressed the Committee in order to answer the points that were raised by the BREC Club and Councillors. The City was not aware when the initial approach was made to the Bunbury Regional Entertainment Centre that the BREC Club was a separate entity. He has met with the BREC Club

and has agreed to liaise with them to arrive at a satisfactory outcome and that the City is happy for the previous system to be reinstated until a more suitable system can be devised.

Cr Leigh advised that there was some confusion as the motion did not differentiate between the Bunbury Regional Entertainment Centre (BREC) and the Bunbury Regional Entertainment Centre Club (BREC Club) and requested that the changes be made. The changes will be made throughout the minutes to avoid further confusion.

The mover and seconder agreed to an amendment to item 1 of the motion that added "...while they are volunteering their services,..." after the word Club.

Cr Steck moved, Cr Punch seconded an amendment to item 3..."Review a special amendment on the Parking Policy for the volunteers for all non-profit organisations across the City of Bunbury area."

The Mayor put the amendment to the vote – 9 votes "for" / 3 votes "against"
CARRIED.

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

Committee Recommendation

1. Free parking arrangements for the volunteers of Bunbury Regional Entertainment Centre Club while they are volunteering their services, should be reinstated immediately
2. Joint proposal with the BREC Club to make good the parking arrangements for all volunteers who serve the Bunbury Regional Entertainment Centre, Bunbury WA
3. Review a special amendment on the Parking Policy for the volunteers for all non-profit organisations across the City of Bunbury area.

Outcome - Council Meeting 27 April 2010

Cr Leigh disclosed an interest in this item as he and his wife Linda are members of the BREC Club and volunteer the services on occasion. He will stay, participate in the discussion and vote on the matter.

The recommendation from the Council Standing Committee was moved Cr Leigh, seconded Cr Steele.

The motion (as printed) was put to the vote and adopted to become the Council's decision on this matter.

Council Decision 71/10

1. *Free parking arrangements for the volunteers of Bunbury Regional Entertainment Centre Club while they are volunteering their services, should be reinstated immediately*
2. *Joint proposal with the BREC Club to make good the parking arrangements for all volunteers who serve the Bunbury Regional Entertainment Centre, Bunbury WA*
3. *Review a special amendment on the Parking Policy for the volunteers for all non-profit organisations across the City of Bunbury area.*

CARRIED

11 Votes "For" / Nil Votes "Against"

11.17 Attendance at (and Appointment of Voting Delegates to) Local Government Convention 2010 and Annual General Meeting of the Western Australian Local Government Association *(was listed as item 11.11 on the meeting agenda)*

File Ref:	A00106-50
Applicant/Proponent:	Internal Report
Author:	Jack Dyson, Senior Administration Officer
Executive:	Ken Weary, Executive Manager Corporate Services

Summary

Correspondence has been received from The Western Australian Local Government Association (WALGA), advising that the Annual General Meeting will be held Saturday 7 August 2010 as part of the Local Government Convention, again being conducted at the Perth Convention Exhibition Centre.

WALGA is also inviting member Local Governments to submit motions for consideration of inclusion on the agenda.

Council is also invited to nominate two (2) voting delegates for the purpose of exercising its right to vote at the Annual General Meeting.

Background

WALGA has once again given notice of the date of its Annual General Meeting, which is to be conducted on Saturday 7 August 2010 as part of the Annual Local Government Convention.

This year's convention is tentatively scheduled to be conducted from Thursday 5 August until Sunday 8 August with sessions for most participants commencing on Thursday 5 August.

WALGA has invited member Local Governments to submit motions for inclusion on the Agenda, to be considered at the Annual General Meeting. Motions should be submitted in writing to the Chief Executive Officer of WALGA by no later than Monday 14 June 2010.

In submitting motions, member council's are requested to observe the following guidelines:

- Motions should focus on policy matters rather than issues which could be dealt with by the WALGA State Council with minimal delay.
- Due regard should be given to the relevance of the motion to the total membership and to Local Government in general. Some motions are of a localised or regional interest only and might be better handled through other forums.
- Due regard should be given to the timeliness of the motion – will it still be relevant come the Local Government Convention or would it be better handled immediately by the Association?

- The likely political impact of the motion should be carefully considered.
- Due regard should be given to the educational value to Members – i.e. does awareness need to be raised on the particular matter?
- The potential media interest of the subject matter should be considered.
- Annual General Meeting motions submitted by Member Local Governments must be accompanied by fully researched and documented supporting comment.

In previous years Council has nominated His Worship the Mayor and Deputy Mayor as its voting delegates, although another Councillor has from time to time been nominated in the absence of the Deputy Mayor.

In recent years the City has had a strong participation rate by elected members, at the Annual Local Government Convention. Councillors will be provided with the program details when they are finalised and become available.

Proposal

It is proposed that Council nominate His Worship the Mayor and the Deputy Mayor as its voting delegates to attend the Local Government Convention from Thursday 5 August 2010 until Sunday 8 August 2010 inclusive. The Chief Executive Officer advises that he will also be attending this convention.

Strategic and/or Regional Outcomes

Matters of strategic or regional significance can be raised (and discussed) at the convention and the Annual General Meeting. This convention is an ideal opportunity to network with other elected members from across the State as well as those from within the South West region.

Community Consultation

There is no need for community consultation in regard to this proposal.

Councillor/Officer Consultation

The Chief Executive Officer and Council are aware of the forthcoming convention.

Analysis of Financial and Budget Implications

Council's 2010/2011 draft budget provides funding for elected members attendance at this conference which traditionally includes some elected member training and development.

Economic, Social, Environmental and Heritage Issues

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

Council Policy Compliance

This proposal is in compliance with existing council policies CEO 1 and CEO 9.

Legislative Compliance

Under the terms and conditions of the WALGA constitution, Council is only permitted to appoint two (2) voting delegates.

Delegation of Authority

The Chief Executive Officer has no delegated authority relevant to this proposal.

Relevant Precedents

The City of Bunbury has in previous years, nominated His Worship the Mayor and the Deputy Mayor or another Councillor as its voting delegates to attend the Annual General Meeting of WALGA at the conference.

Options

Option 1

Per the recommendation listed in this report.

Option 2

Council decide not to approve the attendance and therefore not exercise its voting rights at the convention

Conclusion

Council has always had strong representation at the Annual Local Government Convention from its elected members and has, in recent history always nominated voting delegates to exercise Councils right to vote on matters being considered by the industry at the Annual General Meeting of the Association.

Recommendation

That Council nominate His Worship the Mayor and Deputy Mayor as the City's voting delegates at the 2010 Local Government Convention and Annual General Meeting of WALGA.

Outcome - Council Committee Meeting 20 April 2010

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

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

Committee Recommendation

That Council nominate His Worship the Mayor and Deputy Mayor as the City's voting delegates at the 2010 Local Government Convention and Annual General Meeting of WALGA.

Outcome - Council Meeting 27 April 2010

The recommendation from the Council Standing Committee was moved Cr Steck, seconded Cr Punch.

Cr Steck requested that she be included as a proxy delegate in the event that either the Mayor or the Deputy Mayor was unable to attend the conference. Cr Punch agreed to the amendment to the motion.

The amendment reads as follows:

- '...a. *That Council nominate His Worship the Mayor and Deputy Mayor as the City's voting delegates at the 2010 Local Government Convention and Annual General Meeting of WALGA.*

- b. *In the event of His Worship the Mayor or the Deputy Mayor being unable to attend, the Cr Steck to be accepted as proxy delegate...*

The Mayor put the motion (as amended) to the vote in separate parts. The result was adopted to become the Council's decision on this matter.

Part a:	10 votes "for" / 1 vote "against"	CARRIED
Part b:	7 votes "for" / 4 votes "against"	CARRIED

Council Decision 72/10

- a. *That Council nominate His Worship the Mayor and Deputy Mayor as the City's voting delegates at the 2010 Local Government Convention and Annual General Meeting of WALGA.*

- b. *In the event of His Worship the Mayor or the Deputy Mayor being unable to attend, the Cr Steck to be accepted as proxy delegate.*

11.18 Closure of Advertising for Scheme Amendment No. 39, Picton Agricultural Hall – Change from “Industry Zone” to “Public Purposes Reserve” (was listed as item 11.14 on the meeting agenda)

File Ref:	A03866
Applicant/Proponent:	City of Bunbury
Author:	Neville Dowling (Consulting Strategic Planner), Thor Farnworth (Coordinator Strategic & Environmental Planning)
Executive:	Geoff Klem (Executive Manager City Development)

Summary

Lot 10 (No 246) South Western Highway, Picton is the site of the Picton Agricultural Hall. An assessment by a qualified independent heritage consultant and also advice from the Regional Heritage Advisor has indicated that the Hall has a high level of local cultural heritage significance and should be afforded protection by being included in the City of Bunbury Heritage List. The City of Bunbury has therefore applied for a Lotterywest grant for the preparation of a conservation plan for the Hall. In order to obtain the funding there must be a demonstrated intent to use the site for community purposes - for which the current industry zoning of the site is not considered appropriate.

At the ordinary meeting of Council on the 17 November 2009 it was resolved that:

- “1. Council to initiate Scheme Amendment No. 39 to the City of Bunbury Town Planning Scheme No. 7 by rezoning Reserve No. 14588 (No. 246 South Western Highway) in Picton from “Industry Zone” to “Public Purposes Reserve” in accordance with the provisions of section 75 of the Planning and Development Act 2005.
2. Council to refer Scheme Amendment No. 39 documentation to the Environmental Protection Authority for its assessment in accordance with the provisions of section 81 of the Planning and Development Act 2005.
3. Following the consent of the Environmental Protection Authority, the City to publicly advertise Scheme Amendment No. 39 for a period of 42 days in accordance with the procedures as prescribed by regulation 25 of the Town Planning Scheme Regulations 1969.”

(Council Decision 235/09)

Consent from the Environmental Protection Authority (EPA) to advertise the amendment was received on the 23 December 2009. The proposed scheme amendment was advertised between 13 January 2010 and 24 February 2010, with only two submissions being received.

The two submissions were both objections to the amendment proposal. The submissions are discussed in the Community Consultation section of this report. Also

full copies of the submissions along with detailed officer comments on each submission are to be found in the schedule of submissions **attached** at Appendix 10

A copy of the scheme amendment document was included in the report issued under separate cover (Attachment 1) circulated to members in the 17 November 2009 report to Council.

Background

Cultural Heritage Value

Heritage advice from the South West Regional Heritage Advisor, Annette Green, obtained on 20 November 2006 concluded that the Picton Agricultural Hall warranted consideration for entry in the Local Government Inventory of Heritage Places (also known as the Municipal Inventory) as part of its review.

It was indicated in the heritage advice report that a Heritage Assessment was needed in order to:

- determine the degree of significance attributable to the place; and
- provide more detailed information on which to base decisions about appropriate future use and development.

In addition it was recommended that the City of Bunbury should consider applying for a Lotterywest heritage grant for the preparation of a conservation plan for the Hall. A copy of the heritage advice report can be found at Annex 1 of the Local Planning Scheme Amendment Report (Attachment 1 in the 17 November 2009 Council item report issued under separate cover).

A heritage assessment was carried out by the architect and heritage consultant, Annabel Wills, in September 2009. The "statement of significance" in the report indicated as follows:

"Picton Agricultural Hall, a single-storey painted and rendered brick building in the Inter War Free Classical style with a symmetrical façade and gabled parapet, has cultural heritage significance for the following reasons:

- *the place is a good example of a regional Agricultural Hall in the Inter War Free Classical architectural style;*
- *the place demonstrates the once central importance of town halls to rural communities and how these have become less important with the declining populations of some towns and with the increased ease of travel for recreational activities;*
- *the place is a landmark in Picton, as a prominent building with a distinctive presence and one of the few remaining buildings of the town; and*
- *the place was highly valued by the community of Picton and surrounding area, for the sense of place and memories of civic and social events that have taken place in there."*

The recommendation of the heritage assessment report was as follows:

“That the place, Picton Agricultural Hall be included in the City of Bunbury Local Government Heritage Inventory and afforded protection under the City of Bunbury Town Planning Scheme by inclusion in the Heritage List.”

A full copy of the heritage assessment report can be found at Annex 2 of the Local Planning Scheme Amendment Report (Appendix 1 to the 17 November 2009 Council item report issued under separate cover).

Strategic and/or Regional Outcomes

State Planning Strategy

The State Planning Strategy provides generalised guidance for the State’s economic, social and cultural elements of sustainability. It is recognised that protection of the State’s cultural heritage is an important part of enhancing the quality of life for all Western Australians (refer to Executive Summary, page xi). It is also stated under the heading of “Driving Forces which Influence land Use Planning” that

“... not all things will change. Indeed, our social identity and cultural heritage are dependent upon retaining important links with the past (refer to page 5).”

The Greater Bunbury Region Scheme

The Greater Bunbury Region Scheme (GBRS) indicates the subject land as “Urban Zone”. The proposed reservation of the land for public purposes is not in conflict with the regional zone’s purpose, and can be considered to come under the category of a community facility in terms of its cultural heritage and meeting place function.

City of Bunbury Strategic Plan

The City of Bunbury Strategic Plan (2008-2012) recognises the importance of Bunbury’s built heritage under the strategy heading of 5.1: Protect Bunbury’s Natural, Cultural and Built Heritage, which follows on to state *“... that the City of Bunbury will strive to protect Bunbury’s unique natural environment and cultural and built heritage for the benefit of current and future generations.”*

City Vision Strategy

The City Vision Strategy was adopted by Council on 12 December 2006 (Council Decision number 241/06). Under the social objectives and strategies section on page 15 of the City Vision Strategy document, Objective 3 seeks to:

“Identify, protect and manage significant heritage and cultural areas and sites.”

The implementation strategy supporting this objective is to:

“Ensure that the City of Bunbury Municipal Inventory of Heritage Places is up to date and where appropriate, provisions are included in the City’s Local Planning Scheme to manage heritage values.”

In addition, in the Priority Issues & Proposals section on page 31 of the City Vision Strategy document, it is also stated that:

“Heritage buildings are valuable landmarks in the City’s landscape, distinguishing features, in some cases they beautify an area and they are tourist attractions and valuable historic reminders.”

Community Consultation

The proposed scheme amendment was advertised for a period of 42 days pursuant to the Planning and Development Act 2005 and the accompanying Town Planning Regulations 1967, as part of the scheme amendment procedure. The official closure of the advertising period was on the 24 February 2010.

Two written submission have been received both of which are objections. A schedule of submissions is attached at Appendix #.

The objections to the rezoning are based on the following issues which are summarised and discussed as follows:

Filling of Surrounding Lots

Council’s Engineering Department have confirmed that there are no filling requirements for the lots surrounding the subject land as this area is not within the floodplain. Council’s Building Department have advised that only Standard Building Code of Australia requirements apply to new buildings in this area.

Drainage

Drainage cannot be permitted to flow from adjoining properties onto the lot as it is required under the Local Government Act 1995, Part 9 Containment of Stormwater, clause 9.1 as follows:

“Unless discharged or drained off by means of a stormwater connection approved by the local government, the owner or occupier of a lot shall ensure that all rainwater or stormwater received by the lot and any house or building on the lot, is contained within the lot and is not permitted to discharge onto, or runoff into, or cause damage to any structures on an adjacent lot, thoroughfare, right of way, public place or reserve.”

This means that all drainage is to be contained on site. This is a standard condition of development approval.

Ongoing Maintenance Costs

The matter of ongoing maintenance costs should be considered in terms of the cost/benefit of works required to allow the building and its grounds to continue being a useful asset for the community in terms of cultural heritage value and use as a public facility for meetings and club functions.

It is apparent that keeping the Hall in a state of reasonable repair, such that it can be of benefit to the local community, will also involve some cost in terms of ongoing maintenance and improvements.

Request to Purchase Picton Hall Site

The submission on behalf of Picton Hotel Pty Ltd includes a statement in that they have an interest in purchasing the site from the City of Bunbury. The statement is as follows:

“Picton Hotel Pty Ltd however are prepared to negotiate with the City of Bunbury on acquiring the land at a fair market worth conditional upon there being no obligation to Picton Hotel Pty Ltd to retain the Picton Agricultural Hall. The money received from the sale of the land would be best used to build a “Public Purpose” facility on an existing “Public Purpose Use” land in Picton and giving recognition to the history of Picton Agricultural Hall.”

This in essence means that if Picton Hotel Pty Ltd were able to purchase the Picton Hall site from the City of Bunbury then it would be demolished and the site redeveloped for industrial development in keeping with the surrounding industrial area. Given that the Heritage Assessment recommends that the building should be retained then sale of the site cannot be considered as Council has adopted the recommendations of the heritage assessment at its meeting on the 17 November 2009 (Initiation of Amendment 39).

It is also to be noted that Picton Hotel Pty Ltd approached Council to purchase the Hall in 2002. After extended negotiations between the proponent and the City of Bunbury the matter was abandoned in November 2003. More details regarding the former offer to purchase the site can be found in the schedule of submissions attached at Appendix 1 under separate cover to this report.

Heritage Planning Officer Comments:

“The City of Bunbury Municipal Inventory 1994 was superseded by the City of Bunbury Municipal Inventory 2001. Riverdale in Kaeshagen Street is included in the 2001 MI.

As a general rule, places are included, or considered for inclusion, on the MI when they are nominated by owners or members of the public. Neither the Picton Hotel nor the Picton Ag Hall has been nominated in the past. The Picton Ag Hall was drawn to the City's attention in recent years when there was potential for redevelopment of the site. The potential value of the tavern was not expressed.

It appears that no public interest has been expressed regarding the heritage values of the Picton Tavern. At the minimum a photographic record could have been made.

The loss of the Picton Tavern, if it did indeed have heritage significance, is regrettable. The loss of the tavern should be a reminder to Councillors and members of the public that our heritage is valuable and should be protected to minimise potential loss. It should be seen as a stronger reason to retain the Picton Ag Hall so that no more of the City's heritage is lost rather than a justification for the hall's demolition.”

Councillor / Officer Consultation

Council's Heritage Planning Officer has liaised with various City Councillors, planning staff and Council's Manager Administration & Property Services in relation to the Picton Agricultural Hall site.

Analysis of Financial and Budget Implications

The anticipated use of the Picton Agricultural Hall by community groups will assist the City of Bunbury in terms of upgrading and maintenance of the Hall and its associated grounds through the money received from leasing fees. Nevertheless costs related to upgrading and ongoing maintenance of the site may exceed income from leasing fees in years to come if the hall is deemed to require considerable repair and reconstruction work by the proposed conservation plan.

Life-cycle Maintenance Costs (Capital Works Projects Only)

There is no budget allocated specifically for the Picton Agricultural Hall site. The City's Building Construction and Maintenance Division currently have a small budget towards ongoing maintenance of halls generally in the City; however, this only relates to minor repairs and is insufficient to be utilised for any major upgrades to infrastructure or renovation work.

It was recommended by the City's Regional Heritage Advisor that the City of Bunbury consider applying for a Lotterywest heritage grant for the preparation of a conservation plan for the Hall. Lotterywest Grants are available for urgent conservation work on places or objects of significant heritage value, as well as for the preparation of Conservation or Treatment Plans. The application for the grant has been lodged however notification of whether the application has been approved will not be given until April 2010. Grants for Cultural Heritage projects do not usually exceed \$15,000.

Economic, Social, Environmental and Heritage Issues

Economic Issues

The economic issues relating to the Picton Agricultural Hall site relate to generating income to ensure the Hall's repair, upkeep and any opportunities for renovation. It is possible that ongoing maintenance of the Hall will require additional funding above that provided under current budgets.

Social Issues

Through its function as a meeting place the Picton Agricultural Hall provides an opportunity for local community groups to undertake community oriented / social capital building activities.

Environmental Issues

The subject land and building is located in a general industrial area, and there are no known environmental issues relate to the proposal.

Heritage Issues

As stated earlier in this report the Hall has been assessed by a qualified Heritage Architect and deemed to have high cultural heritage significance. Details are provided in the Local Planning Scheme Amendment Report.

Council Policy Compliance

Glen Iris - Moorlands Local Area Plan

The Glen Iris - Moorlands Local Area Plan: Study was adopted by Council on 16 December 2008 (Council Decision number 246/08) as a guiding statement to inform subsequent statutory planning instruments such as the revised Glen Iris Structure Plan, and pursue the finalisation of the remaining parts of the local area planning project, including a Local Planning Policy: Glen Iris – Moorland Local Area Plan.

The Local Area Plan (or LAP) indicates the conceptual basis for land uses within the suburban area of Glen Iris and Moorlands. The area containing the subject land is shown as “Industrial”; nevertheless the rezoning of the site to “Public Purposes Reserve” should not have any significant effect on adjoining industrial land uses.

Local Planning Policy: Assessment of Cultural Heritage Significance

Local Planning Policy: Assessment of Cultural Heritage Significance seeks to ensure that all heritage assessments conducted in the City of Bunbury are undertaken in a manner that is accountable, comparable and consistent.

The historic cultural heritage value of a place is assessed under the Local Planning Policy according to criteria relating to aesthetic, historic, scientific, cultural and social values. A place is considered to have cultural heritage significance to the City of Bunbury if it meets one or more of these criteria. The level of significance of a place is then determined according to criteria relating to rarity, representativeness, condition, integrity and authenticity.

This Local Planning Policy sets out the process for assessing the abovementioned criteria. A “Statement of Significance” is then prepared providing a concise description of the place’s significance with reference to the assessment criteria. A level of significance, with its associated management category, is then applied to each place identified as having cultural heritage significance. In relation to the subject land, the Heritage Assessment Report has identified the site as having a high level of local significance.

Local Planning Policy: Heritage Conservation and Development Policy

The purpose and intent of Local Planning Policy: Heritage Conservation and Development Policy is to:

- Apply the development control principles contained in State Planning Policy 3.5 - Historic Heritage Conservation;
- Provide development and design guidance for development of places in the Heritage List established pursuant to the Scheme; and
- Detail procedures for making applications for approval of heritage-related development.

This Local Planning Policy does not have any bearing on this rezoning proposal, as no development is proposed. However, it will become applicable if and when any works are proposed within the subject site.

Legislative Compliance

Local Planning Scheme

Part 7 of the City of Bunbury Town Planning Scheme No. 7 (TPS7) deals with heritage protection. The purpose and intent of the heritage provisions are:

- To facilitate the conservation of places of heritage value; and
- To ensure, as far as possible, that development occurs with due regard to heritage values.

The process of inclusion of the subject land on the Scheme's Heritage List will need to conform to the procedures as set out by Section 7.1 - Heritage List.

The subject site is currently included in the "Industry Zone". Land adjoining the site to the east and north is also zoned Industry. Lots 11-14 to the west of the site are zoned "Special Use Zone No. 8 – Hotel" (Picton Tavern which was demolished recently). South of the site is the South West Highway which is a regional reserve and shown as "Primary Regional Roads" on both TPS7 and the GBRS.

Delegation of Authority

The Chief Executive Officer (CEO) does not have the delegated authority of Council to enact a scheme amendment to the City of Bunbury Town Planning Scheme No. 7.

Relevant Precedents

The procedure for amending the Scheme is prescribed under the Planning and Development Act 2005 and the Town Planning Regulations 1967. From time to time the Local Government may amend the Scheme as required in order to ensure that it administers the Scheme Area in an orderly and proper manner in accordance with the State Planning Framework. However, it should be noted that gazettal of a scheme amendment proposal rests with the Minister for Planning.

Options

Option 1

Per the recommendation listed in this report.

Option 2

That Council does not recommend final approval to the rezoning of the subject site to "Public Purposes Reserve", and for the site to remain in the "Industry" zone.

Conclusion

Scheme Amendment No. 39 is proposed in order to provide the subject land and building with appropriate reservation status in keeping with its recognised value in terms of both locally significant cultural heritage and social infrastructure/facility opportunities for community groups.

The independent heritage advice and assessment by the Regional Heritage Advisor and a qualified heritage consultant (copy of reports attached at Annexes 1 and 2 of the Local Planning Scheme Amendment Report) indicates that the Picton Agricultural Hall should also be included in the Municipal Inventory of Heritage Places and in the Heritage List.

Hence, the proposed rezoning of the subject site to "Public Purposes Reserve" under the Scheme is justified in order ensure a consistent statutory planning framework for the preservation and ongoing utilisation of the land and building for public purposes.

Recommendation

That Council resolves to:

1. Determine the submissions as recommended.
2. Adopt Scheme Amendment No. 39 to the City of Bunbury Town Planning Scheme No. 7 by rezoning Lot 10 (Reserve No. 14588) South Western Highway, Picton from "Industry Zone" to "Public Purposes Reserve" in accordance with the provisions of section 75 of the Planning and Development Act 2005.
3. Refer Scheme Amendment No. 39 documentation to the Western Australian Planning Commission with a request for final approval in accordance with the provisions of the Planning and Development Act 2005.

Outcome - Council Committee Meeting 20 April 2010

The recommendation (as printed) was moved Deputy Mayor Cr Kelly, seconded Cr Whittle.

The motion was put to the vote and adopted to become the committee's recommendation on this issue.

It was requested that the votes be recorded as follows:

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

Committee Recommendation

That Council resolves to:

1. Determine the submissions as recommended.
2. Adopt Scheme Amendment No. 39 to the City of Bunbury Town Planning Scheme No. 7 by rezoning Lot 10 (Reserve No. 14588) South Western Highway, Picton from "Industry Zone" to "Public Purposes Reserve" in accordance with the provisions of section 75 of the Planning and Development Act 2005.

3. Refer Scheme Amendment No. 39 documentation to the Western Australian Planning Commission with a request for final approval in accordance with the provisions of the Planning and Development Act 2005.

Outcome - Council Meeting 27 April 2010

The recommendation from the Council Standing Committee was moved Deputy Mayor Cr Kelly, seconded Cr Leigh.

Cr Jones asked the mover and seconder if they would agree to an amendment to point 1 of the recommendation. This was agreed to. The amendment is as follows:

'...1. Determine the submissions recommended and to include the concluding page of Cr Jones' submission dated February 24 2010, into the Schedule of Public Submissions...'

The motion (as amended) was put to the vote and adopted to become the Council's decision on this matter.

Council Decision 73/10

That Council resolves to:

1. *Determine the submissions as recommended.*
2. *Adopt Scheme Amendment No. 39 to the City of Bunbury Town Planning Scheme No. 7 by rezoning Lot 10 (Reserve No. 14588) South Western Highway, Picton from "Industry Zone" to "Public Purposes Reserve" in accordance with the provisions of section 75 of the Planning and Development Act 2005.*
3. *Refer Scheme Amendment No. 39 documentation to the Western Australian Planning Commission with a request for final approval in accordance with the provisions of the Planning and Development Act 2005.*

CARRIED

8 Votes "For" / 3 Votes "Against"

It was requested that the votes be recorded as follows:

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

12. Motions on Notice

12.1 Motion on Notice – Outer Harbour Taskforce *(was listed as item 12.1 on the meeting agenda)*

File Ref:	A00217
Applicant/Proponent:	Councillor Michelle Steck
Author:	Councillor Michelle Steck
Executive:	<i>If adopted by Council refer to: Geoff Klem, Executive Manager City Development</i>

Cr Steck has given notice that she intends to move the following motions at the Council Committee Meeting on 27 April 2010:

"1. The City of Bunbury approves the establishment of an Outer Harbour Taskforce for the purposes of fast-tracking negotiations for the development of a structure plan, development plan and funding to the the area.

2. Bunbury City Council approve \$ 100,000 from the 2010 budget for the newly created Bunbury Outer Harbour Taskforce to assist the taskforce to undertake key business focus areas and achieving expected outcomes."

Comments - Cr Steck

In support of her motion, Cr Steck states that;

- 1. Up to date there has been no indication of when the area known as the Outer Harbour will be developed. There are commercial conditions that prevent the area from being developed immediately. The Outer Harbour may have possible soil contaminations, which will require further research. Several business alliances will require to be established to ensure the Outer Harbour Development Project is to begin sooner rather than later. The project will encompass a holistic approach to the history and future needs of Bunbury. The Outer Harbour Taskforce will be demanding of time, funds and expertise. Motivation for the project needs to be of a 'sense of urgency' to guarantee earliest development opportunity. The newly appointed taskforce should undertake to develop a business model, negotiate outcomes, business partnerships and establish funding opportunities, with a marketing proposal for the project.*

Last election, during my campaign for Council, one of the major issues I took to the community was the Outer Harbour Project. I received enormous support for the concept and feel that Bunbury is not managing the potential development of this area efficiently. Bunbury is still lacking in many tourist and boating facilities. Given that the Outer Harbour is being used in tourism for hundreds of visitors arriving by commercial passenger vessels, it is with a newly committed sense of urgency that the City of Bunbury must negotiate outcomes for the development of this area.

The Outer Harbour is the 'Jewell' of Bunbury, I propose that the only way to achieve development of the area sooner, is through the establishment of a taskforce to ensure the initiation of the project and the completion of the project.

Three dedicated councillors with dedicated taskforce members is the sensible way forward.

I also recommend that the South West Development Commission and the Bunbury Port Authority be invited to become a member of the Bunbury Outer Harbour Taskforce. Two other positions for taskforce members should be advertised for appointment.

The development concept needs driving and I have highlighted the need for council to create the taskforce with a matter of urgency, with that in mind, I believe the only way to undertake this project and attract funding is to kick-start-the concept and fund the taskforce with \$100,000 from the 2010 budget.

2. *The Bunbury Outer Harbour Taskforce will need an allocation of funds to prepare a business model, create business partnerships, create a marketing package and negotiate key outcomes.*

For the taskforce to operate with a sense of urgency, it will require some funds for daily operations. The taskforce structure is not a monthly meeting process. The taskforce is very hands-on and focused to achieve an outer harbour development. For the development to occur sooner –rather –than-later the taskforce at times will be required to engage in key industry professionals which may require a fee for their time. The development project will require several public consultation processes, reports and other key documents will also be required to be developed and presented to key industry groups and to the general public.

By allocating a reasonable funding amount to the taskforce to undertake key operational duties, it will assist the taskforce to attract other funding partnerships being resourced sufficiently is paramount to deliver a development project that represents what the community wants, meets tourists' needs and the future needs of the city to achieve a development that is economically, environmentally sustainable and socially viable."

Executive Comments

No Executive comment available at the time of preparing the agenda.

Cr Steck's Motions

1. The City of Bunbury approves the establishment of an Outer Harbour Taskforce for the purposes of fast-tracking negotiations for the development of a structure plan, development plan and funding to the the area.
2. Bunbury City Council approve \$ 100,000 from the 2010 budget for the newly created Bunbury Outer Harbour Taskforce to assist the taskforce to undertake key business focus areas and achieving expected outcomes.

Outcome - Council Meeting

The Motion on Notice was moved Cr Steck, seconded Cr Leigh (pro forma) to become the motion under discussion.

Cr Craddock asked the mover and seconder if they would agree to an additional point 3 which reads as follows:

'...3. Council request Landcorp, the Department of Planning and Infrastructure, Bunbury Port Authority and the Bunbury Sailing Club to provide an urgent briefing on any proposed plans for improvements to the Outer Harbour and Koombana Bay...'

This amendment was agreed to.

During the discussion Deputy Mayor Cr Kelly moved procedural motion 15.9 of the City of Bunbury Standing Orders that the 'motion now be put'.

The Mayor put the motion to the vote in separate parts.

Point 1: 6 votes "for" / 5 votes "against" CARRIED. It was requested that the votes be recorded as follows:

For: Deputy Mayor Cr Kelly, Cr Steck, Cr Whittle, Cr Steele, Cr Slater, Cr Punch

Against: Mayor D Smith, Cr Leigh, Cr Craddock, Cr Jones, Cr Harrop

Point 2: 1 vote "for" / 10 votes "against" LOST.

Point 3: 7 votes "for" / 4 votes "against" CARRIED. It was requested that the votes be recorded as follows:

For: Mayor D Smith, Cr Jones, Cr Leigh, Cr Steele, Cr Slater, Cr Harrop, Cr Craddock

Against: Deputy Mayor Cr Kelly, Cr Steck, Cr Whittle, Cr Punch

Council Decision 74/10

- 1. The City of Bunbury approves the establishment of an Outer Harbour Taskforce for the purposes of fast-tracking negotiations for the development of a structure plan, development plan and funding to the area.*
- 2. Council request Landcorp, the Department of Planning and Infrastructure, Bunbury Port Authority and the Bunbury Sailing Club to provide an urgent briefing on any proposed plans for improvements to the Outer Harbour and Koombana Bay*

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

Nil

14. Items to be Noted or Endorsed

There are no new items for noting.

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

15.1 2010/11 Annual Performance Appraisal - Chief Executive Officer *(was listed as item 9.1 on the meeting agenda)*

File Ref:	A01984
Applicant/Proponent:	Local Government Act requirement
Author:	Greg Trevaskis- Chief Executive Officer
Executive:	Greg Trevaskis- Chief Executive Officer

Pursuant to City of Bunbury Standing Order 15.10, Deputy Mayor Cr Kelly moved, Cr Punch seconded “the meeting to exclude members of the public and press to permit Confidential Business (as defined by the Local Government Act 1995) to be discussed.” The motion was put to the vote and CARRIED. The members of the public and press were asked to leave the Chambers.

Outcome - Council Meeting 27 April 2010

The recommendation (as amended) was moved Deputy Mayor Cr Kelly, seconded Cr Punch.

The motion (as amended) was put to the vote and adopted to become the Council’s decision on this matter.

Cr Jones moved procedural motion that the Council meeting be reopened to the members of the public and press. The procedural motion was put to the vote and CARRIED.

(Full Council decision shown overleaf)

Council Decision 75/10

1. *That the CEO Performance Review Panel for 2010/11 consists of:-*
 - 1.1 *Deputy Mayor Cr B Kelly*
 - 1.2 *Cr H Punch*
 - 1.3 *Cr M Steck*
 - 1.4 *Cr J Harrop*
 - 1.5 *A Councillor to be nominated by the CEO*

2. *The 2010/11 CEO Performance Review Report be finalised no later than 31 August 2010.*

CARRIED
11 Votes "For" / Nil Votes "Against"

16. Close of Meeting

The meeting was declared closed at 10.57pm