

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 9 MARCH 2006 AT 7:00 PM

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# CITY OF COCKBURN

## MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 9 MARCH 2006 AT 7:00 PM

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### PRESENT:

#### ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Mr I Whitfield	-	Councillor
Mr K Allen	-	Councillor
Ms L Goncalves	-	Councillor
Mr T Romano	-	Councillor
Mrs J Baker	-	Councillor
Mrs S Limbert	-	Councillor
Mrs V Oliver	-	Councillor

#### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr R. Avard	-	Acting Director, Administration & Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr M. Ross	-	Acting, Director, Planning & Development
Mr A. Jones	-	Communications Manager
Ms V. Viljoen	-	Personal Assistant to CEO

### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00pm.

Mayor Lee advised the meeting that the City of Cockburn had received a Certificate of Merit from the University of Western Australia School of Medicine & Pharmacology (RPH Research Studies Unit) for participation in the PATH Study 2003-2005. The City's involvement in the project not only contributed to the research into the physical activity of older adults, but has made a positive impact on the health and well-being of seniors in the Cockburn City Council.



**2. APPOINTMENT OF PRESIDING MEMBER (If required)**

N/A

**3. DISCLAIMER (To be read aloud by Presiding Member)**

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

**5 (OCM 09/03/2006) - APOLOGIES AND LEAVE OF ABSENCE**

- Clr Amanda Tilbury - Apology

**6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**7 (OCM 09/03/2006) - PUBLIC QUESTION TIME**

**Robyn Scherr – Amity Boulevard, Coogee**

Item 17.3 – Lot 7 – Cockburn Central Facilities

Q. The Council seeks to improve amenities for the citizens of the catchment area identified as Atwell, Banjup, Beeliar, Bibra Lake, Jandakot, Hammond Park, Aubin Grove, Leeming, Success, Wattleup and Yangebup. The populations of these suburbs are growing steadily. They will want to read books. A goodly portion of them will want to go to the beach, too. This past weekend demonstrated alarmingly how inadequate the fatally shortened Coogee Beach now is. What of the future? I ask this Council to find a way to reverse the disastrous consequences of the loss of the northern part of Coogee Beach in favour of a private housing estate.

A. There is no ability or intention of Council to seek to reverse the development of Port Coogee. There will be significant public access to Port Coogee. Councillors fought hard for this over 20 years and have amended and developed this plan to the best of its ability. Council is



actively working towards the upgrading and improvement of access at Coogee Beach as demonstrated with the new Coogee Beach Café and also at Poore Grove where, after much resistance from certain sections of the community, we now look like being able to develop a new Surf Club on the beach.

### **Dan Scherr – Amity Boulevard, Coogee**

#### Item 13.1 – Local Government Statutory Compliance Return – 2005

- Q. The motion passed at the electors' meeting should be read as community dissatisfaction with the current public question time arrangements. Council may well be acting in accordance with statutory requirements, but the public wants more. Who is the Council elected to serve? What has the Council to fear by democratising the meeting process? Are the monthly meetings open to all the citizens or just a get-together of the Mayor and his mates?

Mr Sherr then proceeded to read out a series of questions not previously provided to Council and refused to stop talking when requested by Mayor Lee. The Chief Executive Officer then approached Mr Scherr and requested that he return to his seat or he would be asked to leave the meeting. Mr Scherr refused. Consequently, a response was not provided.

### **Richard Strachan – Chesterton Street, Spearwood**

#### Item 14.3 – Satellite Dish – Lot 550; 66 Barrington Street, Spearwood

- Q1. Regarding the proposed satellite dish at the rear of his property. The satellite dish will be 3 metres above the fenceline and the paperwork received from Council yesterday states that the dish should be on the ground or below the fenceline.
- A1. The proposed dish being 2.7 metres high will not affect the view of 20 Chesterton Street, as the view is already obstructed by their own out-building. While it is accepted that the height of the dish will be slightly higher than the fence, it is within Council's ability to approve of a variation to its Policy where the visual impact is minor in the opinion of the Officer.

Mr Strachan believed that the Officer had not been on his property or on his neighbours' properties.

- Q2. Why can this dish be allowed to obstruct my view to the Cockburn Sound and Garden Island?



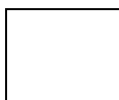
- A2. Views from the objector's ground floor are already obstructed by their rear outbuilding, which shields the location of the dish. Views from the second floor are not obstructed in any way by the location of the dish.
- Q3. The dish is second-hand, very old and rusted. What is Council's policy on very old equipment?
- A3. The dish is second-hand and as stated in the Officer's report, the applicant has stated that the dish still functions and the Officer's observations are that it is not visually obtrusive or flawed in the opinion of the Officer writing the report.

Mayor Lee advised Mr Strachan that he had run out of time and that the remainder of his questions would be responded to in writing.

**Murray O'Brien – Fawcett Road, Munster**

Item 13.6 – Motion – Annual Electors Meeting 31 January 2006 – Ancillary Accommodation – Lot 5 Fawcett Road, Munster

- Q1. The report to Council on Agenda Item 13.6 says that the "O'Brien's were not forthcoming when contacted to request information about our tenants". My wife was completely open and honest with Gordon Bukur from Planning who rang in the first instance. She freely admitted we had tenants and freely replied when asked when had they begun their rental. At no time either verbally or in writing were either of us ever asked if we had other tenants previously. What redress do we have against untrue statements made in a report by staff as if they were true? Will Council or the CEO investigate fully the behaviour of Mike Ross, Gordon Bukur or anyone else who has been involved in this affair since May 2005 to verify by statements exactly what questions were asked as the inferences are untrue and misleading?
- A1. The City's Development Compliance Officer is of the opinion that in relation to this matter, not all information was disclosed. Through further investigation it was revealed that the house was rented out for a longer period than what was explained. It is further asserted that the O'Briens were at times uncooperative in answering questions when asked. Mayor Lee stated that Mr O'Brien was, of course, entitled to his own view on what was said but this was the City's Development Compliance Officer's observation.
- Q2. Will Council make available to us any other approved requests for auxiliary accommodation for any other properties in Cockburn shire (without any personal identifying details) from 1997 to now, that have and have not had similar development conditions put on their applications for an auxiliary accommodation?





- A2. Similar development conditions have been imposed on past applications. These are reflected in Council's Standard Development Conditions Policy which is available to the public. Copies of other past approvals are not accessible to the public.

**Robyn O'Brien – Fawcett Road, Munster**

Item 13.6 - Motion – Annual Electors Meeting 31 January 2006 – Ancillary Accommodation – Lot 5 Fawcett Road, Munster

- Q1. Will a Councillor put to the meeting to have agenda item 13.6 deferred till April meeting as we were not told that this item relating to us was coming to this meeting and the slanderous and defamatory allegations made against us in the report made by Victor Marcelino to Council in this Agenda need time for us to answer these allegations and put a submission to Council so Councillors are fully aware of the true facts which we have in writing rather than allegations.
- Q2. The report says we were notified. Who are they saying notified us and in what way, as we received no phone call nor letter from Council that this was on the agenda as other ratepayers have with items that are also on tonight?
- Q3. Has Planning or Council sought and obtained a legal opinion as to the five grounds in my November letter that we were told were grounds the Councillors could consider for an amendment of the initial development approval?
- Q4. Can we have a summary of the legal advice please, if any was obtained? In the absence of legal advice whose authority and on what basis were the planning decisions and their relevance to our case that are written in the staff report, made?
- Q5. Who is the DCO the report refers to?
- Q6. The report says that a change in family circumstance is not sufficient basis for the Council to change the development approval. Does this mean that every other ratepayer who builds an auxiliary accommodation in good faith for their elderly parents or relatives, are left with a financial burden and empty house if the relative should die or be unable to live there? Has this happened to other ratepayers currently or in the past what is happening to us? What amendment or remedial action can Council take for all those in the past and in the future who are going to house their elderly? Or do we put our parents in a nursing home as a first resort because although we want to care for them, financially the Council makes it impossible?



- Q7. I am accused of making a false statement and my husband and myself are accused of being deliberately misleading and dishonest. Do Councillors agree that Council staff can make these allegations in writing about a ratepayer? Is there a code of conduct that governs their behaviour and will Council take action against Victor Martino (Marcelino) who wrote the report who has publicly defamed us?

Mayor Lee advised he would endeavour to answer these questions within the timeframe, but if not then the Chief Executive Officer would provide the written responses.

- A1. The City notified Mrs O'Brien that the matter raised at the AGM was on the Agenda for 9 March 2006. The City's Development Compliance Officer called Mrs O'Brien early last week and advised that during the course of discussing the need for a site inspection of the property, he clearly indicated that this matter was being considered by Council at tonight's meeting. Mrs O'Brien called the City's Development Compliance Officer earlier this week where he said he could not locate the Agenda on the City's website. The City's Development Compliance Officer reaffirmed his understanding that he believed the item was on the Agenda. Unfortunately, there was a delay in placing the Agenda on the City's website and this meant that the Agenda was not available on the web over the last weekend and earlier this week (i.e. Monday). The matter raised at the AGM is on tonight's Agenda and will be discussed in Council's deliberations.

Mayor Lee advised Mrs O'Brien that the remainder of her questions would be responded to in writing. Mrs O'Brien requested that her questions be answered and would not return to her seat. The Chief Executive Officer approached Mrs O'Brien and requested that she return to her seat, which she eventually did after some considerable time.

**Steve Overton – Jessica Court, Munster**

Item 14.1 – Final Adoption – Amendment No. 31 – Down Coding of Residential Densities from Residential R30 to R20 Density Code – Packham Development area No. 1

- Q1. How can Council justify re-zoning blocks that are 391 sqm from R30 to R20?

Q2. What is the zoning for the Cable Water Ski Park?

- A1. The recommendation is not to down code lots in the new, recently sub-divided portion of Anka Gardens because the lots have already been created down to around 300sqm and people are trying to build homes based on the R30 Coding Standards.

There have been allowances for smaller blocks within the area known



as Packham. Of the 1200 plus lots created, 25% of these where nominated can be developed based on the R30 Code. 75% of land in Packham must be retained where nominated for single residential purposes. This was the basic principle set up by Council that it has administered since the early 1990s.

- A2. Cable Ski Water Park was developed based on a Council adopted Structure plan that was endorsed by the WAPC. The sub-division contains a mixture of R20 Coded lots with R30 Codes lots fronting onto public open space and on rear laneway lots.

**8. CONFIRMATION OF MINUTES**

**8.1 (MINUTE NO 3090) (OCM 09/03/2006) - ORDINARY COUNCIL MEETING - 9 FEBRUARY 2006**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 9 February 2005, as a true and accurate record.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**

**9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE**

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

**11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (If adjourned)**

Nil

**12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

Nil



**13. COUNCIL MATTERS**

**13.1 (MINUTE NO 3091) (OCM 09/03/2006) - LOCAL GOVERNMENT STATUTORY COMPLIANCE RETURN - 2005 (1332) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council adopt the Local Government Compliance Audit return for the period 1 January 2005 to 31 December 2005 as presented.

**COUNCIL DECISION**

MOVED Clr V Oliver SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**

**Background**

N/A

**Submission**

Since 2000, completion of this Return has been mandatory for all local governments in this state.

**Submission**

To adopt the Return in its submitted form.

**Report**

The annual Compliance Audit Return is to be presented to, and adopted by, a meeting of Council.

Following adoption by Council, a certified copy of the Return, signed by the Mayor and Chief Executive Officer, along with a copy of the relevant section of the Council Minutes, is required to be submitted to the Director General, Department of Local Government and Regional Development.

The Return indicates a conformity rating of 99% for the year.

One item of non compliance was noted relating to notices of special Council meetings not always specifying the purpose of the meeting. This matter has since been rectified.



**Strategic Plan/Policy Implications**

Key Result Area "Managing your City" refers.

**Budget/Financial Implications**

N/A

**Legal Implications**

Local Government (Audit) Amendment Regulations, 1999 (Regs 14 & 15) refer.

**Community Consultation**

N/A

**Attachment(s)**

2005 Compliance Audit Return.

**Advice to Proponent(s)/Applicant**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**13.2 (MINUTE NO 3092) (OCM 09/03/2006) - MOTION - ANNUAL ELECTORS MEETING 31 JANUARY 2006 (1713; 1148) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council resolves not to amend its Standing Orders as proposed by the motion carried at the Annual Electors Meeting conducted on 31 January 2006.

**COUNCIL DECISION**

MOVED Clr V Oliver SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**



## Background

At the Annual Electors Meeting conducted on 31 January 2006, the following motion was carried:-

*“That Council **debate openly and reconsider** the recent changes to Standing Orders regarding Public Question Time, and in response to electors wishes shown tonight, remove the new clauses at items 4.4 (1) 2 and 4 which refer to “subject to time restraints-etc.”*

As it is a requirement for resolutions of Electors Meetings to be considered by Council as soon as practicable following their adoption, the matter is now presented for deliberation by Council.

## Submission

N/A

## Report

The resolution carried at the Electors Meeting seeks to remove clauses 4.4(1), 2 and 4 from the Standing Orders amendment adopted in November, 2005.

In relation to sub-clause 2, the amendment removed mention of “Council or Committee” extending Public Question Time by resolution and substituted reference to the presiding member being given this authority. This conforms with Regulation 7 of the Local Government (Administration) Regulations which enabled the presiding member, or the majority of members present at the meeting, to determine the procedures applicable to Public Question Time, subject to a minimum period of 15 minutes being allocated and the public being given an equal and fair opportunity to ask a question.

These conditions are adequately covered by the protocols accepted by Council, which establishes a priority hierarchy for members of the public wishing to submit questions to meetings of Council.

As both the protocols established and the statutory requirement imposed by the Regulations provide sufficient flexibility for the administration of Public Question Time, it is not recommended that sub-clause 2 be removed or amended.

Sub-clause 4 was not affected by the November 2005, amendment and, as previously mentioned in this report, is adequately covered by Council’s accepted protocols and statutory requirements. Accordingly, no changes to this sub-clause are recommended.



For the preceding reasons, it is recommended that Council take no action to pursue the resolution passed at the Annual Electors Meeting on 31 January 2006, relative to this matter.

**Strategic Plan/Policy Implications**

Key Result Area “Managing Your City” refers.

**Budget/Financial Implications**

N/A

**Legal Implications**

- Regulation 7 of the Local Government (Administration) Regulations refers.
- Section 5.33 of the Local Government Act 1995, refers.

**Community Consultation**

N/A

**Attachment(s)**

1. Extract from Council’s Standing Orders Local Law (sec 4.4(1) 2 and 4)
2. Copy of Council Report adopted by Council on 10 November 2005.

**Advice to Proponent(s)/Submissioners**

Proponent of the motion carried at the Electors Meeting has been advised that the matter will be considered at the Council Meeting to be conducted on 9 March 2006.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**13.3 (MINUTE NO 3093) (OCM 09/03/2006) - MOTION - ANNUAL ELECTORS MEETING 31 JANUARY, 2006 (6957) (DMG)**

**RECOMMENDATION**

That Council considers the construction of a Senior Citizens Centre in the District in the context of its overall 10 year Capital Works Programme, to be determined in conjunction with the Strategic Planning exercise currently being undertaken.



**COUNCIL DECISION**

MOVED Cllr V Oliver SECONDED Cllr I Whitfield that Council:

- (1) include within its 10-year Capital Works Programme for 2006/2007 the refurbishment of the Civic Centre to serve as a Senior Citizens Centre;
- (2) direct the Chief Executive Officer to prepare a report on funding options for the inclusion of Meals on Wheels service in the Senior Citizens Centre located in the Civic Centre; and
- (3) include within its 2006/2007 budget for consideration funds to refurbish the Cockburn Civic Centre to serve as a Senior Citizens Centre.

**MOTION LOST 3/6**

MOVED Deputy Mayor R Graham SECONDED Cllr L Goncalves that Council adopt the original recommendation.

**CARRIED 8/1**

**Background**

At the Annual Electors Meeting conducted on 31 January, 2006, the following motion was carried.

*“that the City of Cockburn consider the construction of a senior centre and that it be at a location that is well serviced by public transport.”*

As it is a requirement, in accordance with sec. 5.33 of the Local Government Act, 1995, for all motions carried at an Electors Meeting to be considered by Council as soon as practicable thereafter, the matter is now presented for determination.

**Submission**

N/A

**Report**

Council is currently undertaking a review of its strategic direction for the period 2006-2016. An outcome of this process will be the production of





an infrastructure Capital Works Programme, together with a funding plan and construction timetable.

Council will be required to identify and prioritise its infrastructure Capital Works Programme and mechanisms by which the identified projects can be funded and within a specified timeframe.

To consider individual projects in isolation of this process is not recommended as it represents an ad hoc approach and is extraneous to the strategic approach being followed.

For the preceding reasons, it is recommended that Council takes no action to independently pursue the resolution passed at the Annual Electors meeting on 31 January, 2006, relative to this matter.

It is considered more appropriate for the intent of motions to be considered in a broader strategic context, in conjunction with the City's overall future infrastructure development.

### **Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

No funds have currently been allocated for the construction of a Seniors Centre in Council's forward Financial Plan.

### **Legal Implications**

Sec. 5.33 of the Local Government Act, 1995, refers.

### **Community Consultation**

N/A

### **Attachment(s)**

Nil.

### **Advice to Proponent(s)/Submissioners**

The Proponent of the motion carried at the Electors Meeting has been advised that the matter will be considered at the Council meeting to be conducted on 9 March 2006.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**13.4 (MINUTE NO 3094) (OCM 09/03/2006) - MINUTES OF GRANTS AND DONATIONS COMMITTEE MEETING 13 FEBRUARY 2006 (5930) (RA) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Grants and Donations Committee meeting held on 13 February 2006, as attached to the Agenda and the recommendations contained therein be adopted.

**COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**

**Background**

A meeting of the Grants and Donations Committee was held on 13 February 2006.

**Submission**

To receive the minutes of the Grants and Donations Committee and adopt the recommendations of the Committee.

**Report**

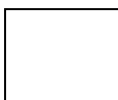
The Council has previously resolved for the Grants and Donations Committee to consider a draft Grants and Donations Application form. Several minor alterations were made by the Committee to a draft application form submitted for consideration by the Administration. These alterations have been included in the revised draft Grants and Donations Application form attached to the Agenda.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

All Grants and Donations will be considered in the context of Council Policy SC35 "Grant and Donations – Not for Profit Organisations" which establishes that 2% of rateable income will be available for this purpose.



**Legal Implications**

Nil.

**Community Consultation**

The availability of Community Grants and Donations will be advertised at the appropriate time.

**Attachment(s)**

1. Minutes of Grants and Donations Committee Meeting 13 February 2006.
2. Draft Grants and Donations Application form.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**13.5 (MINUTE NO 3095) (OCM 09/03/2006) - DAYLIGHT SAVING - WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (1332) (RA) (ATTACH)**

**RECOMMENDATION**

That Council advise the Western Australian Local Government Association that it supports a referendum by the State Government on whether daylight saving should or should not be introduced in Western Australia.

**COUNCIL DECISION**

MOVED Cllr V Oliver SECONDED Cllr I Whitfield that Council advise the Western Australian Local Government Association that daylight saving is not a Local Government issue to be pursued by WALGA.

**MOTION LOST 2/7**

MOVED Cllr K Allen SECONDED Cllr L Goncalves that Council advise the Western Australian Local Government Association that it supports the introduction of daylight saving into Western Australia.

**CARRIED 6/3**



## Reason for Decision

WALGA has asked a series of questions to Councils. Question 1a asks "Does your Council support the introduction of Daylight Saving Time in Western Australia. The proposed recommendation places conditions around this question. Council, like the State Government, needs to be firm in answering this question. Supporting a referendum is not taking a firm position.

## Background

The matter of whether W.A. should introduce daylight saving has once again been raised in the mass media. A number of Councils have approached W.A.L.G.A. on seeking a Local Government position on the matter.

## Submission

The Western Australian Local Government Association has written to Council seeking its views on daylight saving for W.A.

## Report

There has been 3 referendum in W.A. on whether there ought to be daylight saving or not. All these referendums have rejected the proposal for daylight saving. The most recent referendum was 13 years ago held on 4 April 1992 which posed the question.

*"Are you in favour of the standard time in the State being advanced one hour from the last Sunday in October 1992 until the first Sunday in March 1993 and in a similar fashion for each year thereafter?"*

There have been 3 questions raised by W.A.L.G.A. on which they seek feedback.

Question 1a: - Does your Council **support** the introduction of Daylight Savings Time in Western Australia?

Question 1b: - Does your Council **oppose** the introduction of Daylight Saving Time in Western Australia?

Question 2: - Is Daylight Saving Time a Local Government issue that members would like W.A.L.G.A. to pursue?

It is suggested that the first question to be addressed by Council is question 2, *"Is Daylight Saving a Local Government issue to be pursued by W.A.L.G.A."*



It is difficult to expect that elected members are in a position to reflect the views of residents on the daylight saving issue, as it is not a matter usually considered by Local Government. If elected members hold this view it is recommended that Council advise W.A.L.G.A. that daylight saving is not a matter to be pursued by it.

Alternatively, should elected members hold the view that daylight saving is a matter that they ought to speak on behalf of their residents they could then vote in chambers on question 1a and 1b and then question 2. As in the general community, it is likely that elected members will have differing views on this issue.

Council could readily take the position that it supports another referendum on the matter to be conducted by the State Government.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

There is insufficient time available to consult the community on the issue of daylight saving. It is more the role of the State Government to consult with the community on this issue.

**Attachment(s)**

Copy of letter from W.A.L.G.A. on daylight saving.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**13.6 (MINUTE NO 3096) (OCM 09/03/2006) - MOTION - ANNUAL ELECTORS MEETING 31 JANUARY 2006 - ANCILLARY ACCOMMODATION - LOT 5 FAWCETT ROAD, MUNSTER - OWNER: MP & RJ O'BRIEN (3411306) (VM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) consider this matter as proposed by the motion carried at the Annual Electors Meeting conducted on 31 January 2006;
- (2) advise the O'Brien Family that it is unable to consider their request to change the development approval for Ancillary Accommodation to a Grouped (R-Code) Dwelling use due to the mandatory compliance requirements applying to the land in Schedule 11, Development Area 5 Provision 3 of Town Planning Scheme No. 3 as follows:-

*"To provide for residential development except within the buffers to the Woodman Point WWTP, Munster Pump Station and Cockburn Cement."*

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that Council defer this item to the April 2006 meeting and advise Mr & Mrs O'Brien, in writing, accordingly.

**CARRIED 9/0**

**Reason for Decision**

This will enable further time to consider this matter and afford further notice to the O'Briens of the item going before the April 2006 meeting.

**Background**

At the Annual Electors Meeting conducted on 31 January 2006, the following motion was carried:-

*"MOVED Murray O'Brien (5 Fawcett Road, Munster) SECONDED Robyn O'Brien (5 Fawcett Road, Munster) that the item that we wished to be placed on the December 2005 Agenda be put before a future meeting of Council.*

**MOTION CARRIED 28/1"**



As it is a requirement for resolutions of Electors Meetings to be considered by Council as soon as practicable following their adoption, the matter is now presented for deliberation by Council.

Mrs O'Brien at the Electors Meeting requested that Council consider their request to change the Development Approval for Ancillary Accommodation to a Grouped Dwelling use, as the O'Brien family cannot rent out the existing house on site.

#### Background to the proposal

29 August 2002 - Planning approval for the Ancillary Accommodation was granted with the condition that a legal agreement be prepared, which shall bind the owner, his/hers (*sic*) heirs and successors in title, requiring that the occupier of the ancillary accommodation to be a member of the family of the occupier of the main dwelling, with a Notification lodged under section 70A of the Transfer of Land Act 1893.

May 2005 – Mr O'Brien contacted the City's Ranger Services to report that his tenant's dogs were causing a nuisance. A search of the City records for Dog Registrations revealed that the property is listed as a single lot with only the O'Brien's dogs having been registered at the property.

The matter was then internally referred from Ranger Services to Development Services for compliance relating to the occupancy of the main dwelling. The City's Development Compliance Officer (DCO), conducted an inspection of the property that revealed the O'Brien's were in dispute with the tenants of the main dwelling and had commenced proceedings to have them evicted.

The tenants advised the City's DCO that they were only renting part of the main dwelling and that the house had been divided into two with a separate residence to the other side of the dwelling with the swimming pool.

17 May 2005 – Mrs O'Brien phoned the City's DCO regarding the tenant occupation of the main dwelling. Mrs O'Brien said that the main house had only been rented out since January 2005, due to financial hardship. Mrs O'Brien explained that the ancillary accommodation was built for her father but he had become too ill to live there alone. The O'Briens then decided that Murray, Robyn and their daughter would occupy the ancillary accommodation.

The City's DCO advised Mrs O'Brien there was a breach of the planning approval that was issued for the ancillary accommodation if non-family members occupy the main dwelling. It was also mentioned that an inside inspection of the main dwelling was required to determine the extent of inside changes.



17 May 2005 – The City sent a letter to the O'Briens requesting information on the present development and for a written undertaking to be provided to the City for compliance with the Town Planning Scheme No.3 within 14 days.

1 June 2005 - The City's DCO received an email from Mrs O'Brien advising that the main dwelling was vacant and her husband, their daughter and herself occupied the ancillary accommodation. The City's DCO in response phoned and left a message with the O'Briens that an inspection was required of the property.

15 June 2005 - Mrs O'Brien attended the City's Administration Centre and spoke to the City's DCO requesting why the DCO was investigating this matter further. The DCO explained that he had not received sufficient information in the email that Mrs O'Brien had provided in response to his letter dated 17 May 2005.

Mrs O'Brien then explained that the ancillary accommodation had been built for her mother and that her mother had provided them funds to finance the construction. Her mother then became too ill to live there alone and was unable to reside at the property.

The City's DCO advised Mrs O'Brien that when he had spoken to her previously on the phone that she had then told him it was her father that had become too ill to live in the ancillary accommodation. Mrs O'Brien explained that was also correct, as her parents are divorced, her father had then intended to move in when her mother was not able to.

The City's DCO advised her that he would need to inspect the inside of the main dwelling as soon as possible. Mrs O'Brien said she would arrange a suitable time for the inspection and she would speak to the media if the City pursued the matter.

17 June 2005 - Mr O'Brien then phoned the City's DCO and told him that he refused to allow the City access to the property until he was able to obtain legal advice. The City's DCO explained to Mr O'Brien the City is permitted to enter any building or land within the district to observe compliance with the City's Town Planning Scheme No. 3.

23 June 2005 – Mr O'Brien allowed an inspection to be conducted, by the City's DCO and an Environmental Health Officer. This identified that a kitchen doorway and window opening were sealed with a separate kitchen and bathroom installed on the adjoining side of the wall. Mr O'Brien refused to answer any questions regarding the renovations at this time.

Investigations by the City's DCO into the leasing of the main dwelling uncovered multiple tenants from 25 June 2004 which clearly contradicted the advice received on 17 May 2005 from Mrs O'Brien that





the main house had only been rented out since January 2005. The tenants shared the power and other utilities with the O'Briens, including the rubbish collection bin with only a single bin being allocated to the property. It is also noted that Grouped Dwelling development which includes multiple tenants are required to have separate rubbish collection service fees from Council. Additional rubbish collection fees were not paid to Council by the O'Briens.

Council issued a Prosecution Notice to the O'Briens for a Court Hearing on the 23 September 2005. The O'Briens failed to inform the City or its Solicitor that they would not be available to attend Court on that date because they were on holidays and interstate. The City had legal representation at this hearing, incurring additional legal costs before the matter was adjourned for 21 October 2005.

21 October 2005 - The matter was heard in the Fremantle Magistrate's Court. The O'Briens entered a plea of guilty to the four charges against them. The legal counsel for the O'Briens stated to the Court, that Mr and Mrs O'Brien were both presently unemployed. The Magistrate ordered penalties of \$1,000 each for Mr Murray and Mrs Robyn O'Brien, together with payment of legal costs of \$1,152.80

On 3 November 2005, the City received a request from Mr O'Brien to accept payments of \$100 per week. The offer was initially refused because the City was required to use additional resources in this matter. The City reconsidered its position following further discussion with the O'Briens on 17 November 2005, to receive payments of \$400 per month from the O'Briens that are now being received. It was also agreed following further discussion between the Acting Director Planning and Development and Council's Solicitors not to proceed with any further legal action relating to the ancillary accommodation provided that there was only one family (eg O'Briens) living on the property. Until this matter was clarified it was earlier thought that the O'Briens may still be in breach of their approval for ancillary accommodation.

Since prospects of on-going legal action were dropped, the O'Briens have rigorously pursued their desire to change the use of Ancillary Accommodation to a Grouped (Second) Dwelling.

### **Submission**

N/A

### **Report**

Council's approval for ancillary accommodation was consistent with the O'Brien's development application for ancillary accommodation. The City was not notified by the O'Briens of a change in family circumstances and in any event could not have granted approval for a



second house which is now being sought. A change in family circumstances is not sufficient basis for the City to suddenly change the current approval that has been reflected as a notification on the land title that Mr and Mrs O'Brien accepted. This was also explained in detail to the O'Briens by the Acting Principal Planner before approval was granted, that the accommodation could not be used as a second dwelling.

The subject land is in the "Development Zone" in the City of Cockburn Town Planning Scheme No. 3 and is zoned "Urban Deferred" in the MRS. Under clause 6.2.4.1 of Town Planning Scheme No. 3 ("TPS3") a Structure Plan must be adopted by Council as a prerequisite to subdivision and development. A structure plan has not been adopted that applies to this land and therefore Council would normally be prevented from approving development. Notwithstanding this provision under clause 6.2.4.2 of TPS3 Council could approve a development if in its opinion such a proposal would not prejudice the preparation of a structure plan. This would give Council discretion to change the use of the ancillary accommodation to a grouped dwelling but this is fettered by the TPS3 requirements that apply to the Development Area in Schedule 11 DA5 (Page 12-11) provision 2 as follows:-

*"2. To provide for residential development except within the buffers to the Woodman Point WWTP, Munster Pump Station and Cockburn Cement."*

As the subject land is within the current WWTP odour buffer combined with the absence of a structure plan and an Urban Zoning in the MRS a second dwelling is not appropriate on planning grounds. An approval for a second dwelling could also give rise to a defacto subdivision of the land being sought based on dual occupancy.

The land is also within the 750m generic buffer zone around the Woodman Point Waste Water Treatment Plant. Council does not have the ability to approve residential development within the current odour buffer from the Woodman Point Waste Water Treatment Plant, which includes Lot 5. This means that the Development Area Provisions applying to DA5 preclude the ability of Council granting approval to residential development within the buffer to the Woodman Point Waste Water Treatment Plant. The O'Brien's have asserted that there is no odour buffer around the WWTP but the Urban Deferred zoning in the MRS reflects the current 750m generic odour buffer required by the Water Corporation as a separation distance to future residential development. The odour buffer is the subject of review by the Department of Environment based on the Strategic Environmental Review by the Water Corporation and until this review is complete it would be premature to support the change of use to a second dwelling if the odour buffer implications on Lot 5 don't change.



The O'Briens were not forthcoming when the City's DCO had contacted them to request information for the unlawful development of the main dwelling. Mrs O'Brien also falsely stated that the main dwelling was only leased for a short period from January 2005, when the City's investigations revealed there were multiple tenants from 25 June 2004.

The O'Briens did not disclose to the City's DCO that the main dwelling had been converted to a grouped dwelling prior to the first inspection on 23 June 2005 being conducted. During the first inspection Mr O'Brien refused to respond to the DCO's questions regarding the modified interior of the main house. In correspondence from the City's DCO to the O'Brien family on 14 November 2005 it was stated that the investigations in this prosecution were considerable as evidenced in the report background, and have revealed their actions to be dishonest and deliberately misleading. This matter is subject of contention by the O'Brien family who now seek a withdrawal and apology from the City for making the statement.

The City has accepted that provided a single family lives on the property this would be a reasonable position and this response has been provided to the O'Briens to assist them in this matter relating to compliance with TPS3.

Having reviewed this matter in relation to the O'Brien's request of Council raised at the Annual Electors Meeting it was concluded that Council does not have the ability in its Town Planning Scheme No. 3 to authorise a change of use from Ancillary Accommodation to a Grouped (R-Code) Dwelling. The City's response was previously communicated to Mrs O'Brien by letter on 13 December 2005, which is why the matter was not raised at the Ordinary Meeting in December 2005.

Other Matters Contained in the letter dated 31 January 2006 tabled at the Annual Electors Meeting by Mr O'Brien.

Furthermore the responsibility for the placement of agenda items before Council in the normal course of business lies with the Chief Executive Officer. It is the CEO who ultimately determines those matters, which will be put for consideration to Council.

If there is an item of business after the close of the agenda that the CEO considers to be of an urgent nature the CEO is required to seek leave from the Mayor for the item to have late inclusion on the agenda. The Mayor may also have late items placed on the agenda.

Also under extraordinary circumstances as described in the City of Cockburn Standing Orders 4.11 a member of Council can have a matter debated subject to the Presiding Member (Mayor) agreeing to a motion of an urgent nature being moved.



An alternative open to Elected Members is to have an issue considered through "Matters to be noted for investigation, without debate" Agenda Item 22. This will result in the matter being placed on the agenda at a future meeting of Council.

Investigations by the City are also continuing regarding modification of the garage attached to the Ancillary Accommodation which has been converted into a living area which seems to contradict both the planning approval and Council's Town Planning Scheme No. 3 (R-Codes). This appears to be a further breach of the planning approval that was not noticed earlier. It is however accepted that a building licence was obtained.

In light of the concerns of bias raised by Mr O'Brien the Chief Executive Officer reviewed all correspondence on file. He has advised that he can see no evidence of bias from the Acting Director Planning and Development, Mr Mike Ross or other staff. Mr Ross has not made any reference to the character of either Mr or Mrs O'Brien in any of his correspondence.

### **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

APD29 DEVELOPMENT COMPLIANCE PROCESS

### **Budget/Financial Implications**

Council has incurred legal costs of \$1,152.80 to prosecute unlawful occupation of the Ancillary Accommodation which constituted a breach of the City's TPS3 and an offence under the Town Planning and Development Act. The City has also devoted resources to ensure the O'Brien's comply with the City's Town Planning Scheme No. 3

### **Legal Implications**

Town Planning and Development Act 1928  
Town Planning Scheme No. 3.

### **Community Consultation**

N/A



**Attachment(s)**

- (1) Letter from Mr Murray O'Brien dated 31 January 2006.
- (2) Section 70A Notification.

**Advice to Proponent(s)/Submissioners**

The Proponent of the motion carried at the Electors Meeting has been advised that the matter will be considered at the Council meeting to be conducted on 9 March 2006.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

**13.7 (MINUTE NO 3097) (OCM 09/03/2006) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING MINUTES 21 FEBRUARY 2006 (1054) (SGC) (ATTACH)**

**RECOMMENDATION**

That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 21 February 2006, as attached to the Agenda, and adopts the recommendations contained therein.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr K Allen that Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 21 February 2006, as attached to the Agenda, and adopts the recommendations contained therein with the exception of Item 11.2 and an amendment to note that Clr Tony Romano was present at the meeting.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

NOTE: BY A SHOW OF AN ABSOLUTE MAJORITY OF HANDS, COUNCIL INDICATED THAT IT WISHED TO RESCIND THE PREVIOUS MOTION TO ALLOW FOR A CORRECTION OF COUNCIL'S DECISION.



MOVED Clr T Romano SECONDED Clr K Allen that Council rescind the previous Motion to allow a correction to Council's decision.

**CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 9/0**

MOVED Clr S Limbert SECONDED Clr I Allen that Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 21 February 2006, as attached to the Agenda, and adopts the recommendations contained therein with the exception of Item 12.1, Clause 11.2 "Street Verge Improvements" which is to be amended to replace the word "purchase" with the word "plant" as follows:

*11.2 At the request of owners/occupiers the City will plant trees on street verges in accordance with the following conditions:- etc"*

and an amendment to note that Clr Tony Romano was present at the meeting.

**CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 9/0**

### **Reason for Decision**

It should be noted that the DAPPS Minutes of the meeting held on 21 February 2006 need to be amended to note the presence of Clr T Romano and to amend Item 12.1, Clause 11.2 "Street Verge Improvements".

### **Background**

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 21 February 2006. The minutes of the meeting are required to be presented to Council and its recommendations considered by Council.

### **Submission**

The minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.

### **Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council. Any elected member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for



Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Committee Minutes refer.

**Legal Implications**

Committee Minutes refer.

**Community Consultation**

Committee Minutes refer.

**Attachment(s)**

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 21 February 2006.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

N/A

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

- 14.1 (MINUTE NO 3098) (OCM 09/03/2006) - FINAL ADOPTION - AMENDMENT NO. 31 - DOWN CODING OF RESIDENTIAL DENSITIES FROM RESIDENTIAL R30 TO R20 DENSITY CODE - PACKHAM DEVELOPMENT AREA NO. 1 - OWNERS: VARIOUS - APPLICANT: CITY OF COCKBURN (93030) (VM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the amendment subject to the following modification and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission:



1. Amend existing Clause 3 under DA1 of Schedule 11 of the Scheme Text as follows:
    3. Notwithstanding the R20 Code applying to DA1, the Local Government may recommend subdivision or approve development on any land within DA1 :
      - (a) based on the R30 Code as permitted under table 1 of the Residential Design Codes and the requirement that seventy-five percent (75%) of all land within the Residential Zone shall be developed for the purpose of a single house.
      - (b) until 9 March 2007, following which the R20 Code shall apply.
  2. Amend the Scheme Amendment Map to exclude the southern portion of DA1 within DCA6 on Mayor Road and exclude those new lots created on Anka Gardens and Rockingham Road referred to under WAPC Subdivision Reference Number 124183.
- (2) adopt the recommendations made in the Schedule of Submissions attached to the Agenda; and
  - (3) advise applicant and those who made submissions of Council's decision accordingly.

**COUNCIL DECISION**

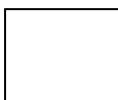
MOVED Cllr I Whitfield SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED 9/0**

**Background**

The purpose of the Scheme Amendment is to ensure the Packham Development Area within the Spearwood Area is developed to a R20 Residential density code in line with the surrounding R20 density code.

Urban Focus has progressively subdivided the Packham Development Area since 1989, through a private landowners development arrangement. The original landholdings included over 120 rural lots that were previously occupied by market gardens and other rural





purposes. Council agreed to apply an R30 Coding to the Packham Development Area as part of District Zoning Scheme No. 2 gazetted on 12 January 2001. The R30 Code was agreed too by Council on the basis that 75% of the lots created were to be developed only as single house lots, with the balance 25% developed based on the R30 Code. This is a mandatory requirement that applies in TPS3.

There are a few different ways Council controls the development potential of land to achieve single house development on most lots in Packham. Without these controls explained below the R30 Coding in many cases would have otherwise permitted two or more grouped dwellings. Council assessed each subdivision diagram in the subdivision stage independently and ensured that 75% of lots created were single residential using the following methods:-

1. Restriction based on lot size – lot was too small in land area to be developed based on the R30 Code (1991 Codes);
2. Restrictive Covenant – registered on title upon creation of new lot where the lot size would have enabled 2 or more grouped dwellings;
3. Existing Development – where the lot contained an existing improvement such as a house and sheds.
4. Original Homesteads established prior to subdivision of Packham usually have no development restriction applying and could be developed to an R30 Code in most cases.

Council prepared and maintained a Packham Development Potential Data Base (“Packham Data Base”) on the development potential of all lots and used this to give information to Real Estate Agents and Settlement Agents and Prospective Purchasers making enquiries on properties. The Packham Data Base has been difficult to apply because the Residential Design Codes were gazetted in October 2002 with minimum lot area per dwelling requirements that became smaller than the lot size requirements applied under the 1991 Codes. This has created an inconsistency in the Packham Data Base, whereby some lots now have development potential for two or more grouped dwellings based on changes to the threshold minimum lot area. This is of concern because these lots were supposed to be retained as part of the 75% of lots in Packham designated as a single house lot. The integrity of the Scheme could be diminished over time if actions are not taken to resolve this inconsistency. Down coding of R-Codes from R30 to R20 would resolve this problem.

Some lots are still vacant in Packham because landowners are waiting until restrictive covenants expire. Many restrictive covenants have sunset clauses that within a period of 10 years from registration the covenant and the restriction will be lifted. Development can then proceed based on the R30 Coding. Various landowners are aware of this and may seek to develop grouped dwellings accordingly. Some landowners have built their house in positions on lots that enable the



construction of a second dwelling despite the existence of restrictive covenants and that their lot was identified as single residential only.

City Officers have also experienced disagreement with landowners about the development potential of their land, where landowners have made their own assumptions about development that conflicts with Council's Packham Data Base. Other situations have arisen where no record of the property can be found on the Packham Data Base and where no restrictive covenant applied, the City had no other option but to recognise the development potential applying under the R30 Code.

Council at its meeting held on 10 November 2005 resolved as follows:-

- “(1) note the report;*
- (2) seek approval from the Western Australian Planning Commission to defer the adoption of the scheme amendment for a period of 12 months (i.e. 10 November 2006) to enable affected landowners with development potential to seek the necessary approvals to legitimise development rights where these currently exist under the City's Town Planning Scheme No 3; and*
- (3) advise those who made submissions of Council's decision accordingly.*

**Reason for Decision**

*The deferral of the scheme amendment is outlined as option two in the report, which allows for landowners with development potential to exercise their development rights. This will enable for example vacant lots with development potential to be approved for development or subdivision based on the current R30 Code.*

*At the end of the 12-month deferment, it is proposed that the scheme amendment be referred back to Council for adoption. By this stage landowners would have had enough time to legitimise current development rights. It is noted that the deferral period would also need to be accepted by the Western Australian Planning Commission.”*

As a result of the Council meeting a letter was sent to the WAPC requesting that the Scheme Amendment be deferred for 12 months to the 10 November 2006.

The Department for Planning and Infrastructure on 25 January 2006 advised that in line with the Town Planning Regulations 1967 clauses 17(1) and 18(1), the submissions on any amendment are to be considered within 42 days of submission (letter attached to the Agenda). Therefore the Scheme Amendment needs to either proceed to be finalised by the WAPC or the Scheme Amendment is to be



withdrawn by the City and no longer proceed as a Scheme Amendment. The process cannot be deferred. If a Scheme Amendment is to proceed at a later date, then it is required to be re-advertised and submissions to be considered within 42 days.

### **Submission**

The proposed down coding of Development Area 1 known as Packham on the Scheme Maps applies to over 1200 residential lots. While the proposed scheme amendment includes over 1200 residential lots the development potential for approximately 75% lots will not change. The balance of lots may have potential for two or more grouped dwellings. This doesn't account for lots that have already been developed for two or more grouped dwellings.

The proposed scheme amendment is intended to give greater certainty and consistency in providing Zoning Statements and granting development approval within Development Area 1 – Packham. The current system of determining development potential is not workable and has lead to arguments with landowners. The expiry of restrictive covenants is also of genuine concern, which may regrettably lead to landowners demolishing existing improvements perhaps even a house to achieve two or more grouped dwellings. The R20 Coding is the most practical option to achieve a unified and consistent Coding. The R20 Code also follows the “Blanket R20 Coding” approach in the district, adopted as the basis to Town Planning Scheme No. 3.

The proposed down coding from R30 to R20 has the following implications:-

- The R20 Code in the Scheme Maps resolves the inconsistency and confusion between the Scheme Map R30 Coding and the Packham Development Potential Data Base. The Scheme Maps clearly prevail without reference to another Data Base;
- Most (75%) of the lots within the Packham Development Area don't have any development potential beyond a single house. The down coding proposal will not reduce the development potential of most lots and therefore the “status quo” remains largely unchanged for most landowners;
- Some landowners of vacant residential lots with no restriction on development potential based on R30 could have their development potential reduced by changing the R-Code from R30 to R20. These landowners would still be able to obtain development approval to realise the full potential of their land under the R30 Code while the R20 scheme amendment is being processed. They would however not be able to develop grouped dwellings after the scheme amendment is gazetted;
- Some residential lots which didn't have development potential may have their development potential increased because their land area



is over 900m<sup>2</sup>. This, however, is consistent with every other residential lot in the district;

- The proposed scheme amendment seeks to delete the requirement for 75% of lots within DA1 to be single residential. This would mean that any lot 900m<sup>2</sup> or greater would permit two grouped dwellings notwithstanding the minimum lot size requirements applying to the R20 Code pursuant to Clause 5.4.1 of TPS3;
- A new variation clause to TPS3 is also needed that enables reinstatement of any dwelling in the district that is accidentally destroyed notwithstanding that the development doesn't comply with the Residential Design Codes. The former development provisions that applied when the development was approved will prevail.
- Properties with existing houses will generally not be affected. Lots less than 600m<sup>2</sup> are also not affected.

## Report

The Scheme Amendment was referred to the Environmental Protection Authority ("EPA") in accordance with Section 7A(1) of the Act.

The EPA advised that under Section 48A of the *Environmental Protection Act* the overall environmental impact of the amendment would not be severe enough to warrant assessment under Part IV of the *Environmental Protection Act*, the preparation of an Environmental Review and the subsequent setting of formal conditions by the Minister for the Environment and Heritage. The amendment was subsequently advertised seeking public comment in accordance with the Regulations for not less than 42 days.

A copy of the proposed amendment map is included in the Agenda attachments.

The 42 day public consultation period for Amendment 30 concluded on 9 October 2005. At the close of the advertising period 59 submissions were received, of which 54 objected to the proposal and 5 supported the proposal.

The submissions objecting to the proposal are summarised as follows:-

- Loss of development potential of the land. When the lot was purchased it was confirmed to be a R30 zoned lot, not R20, therefore potential loss of 1 unit site, equating to approximately \$100,000.
- The Density code of the area should remain the same as it is against Network City Policy objectives proposed by the Minister. The policy encourages medium density area within infill areas.



The City has assessed each submission of objection based on the Packham Development Potential Data Base. It is important to note that 42% of the submissions of objection to down coding were from lots that don't currently have any development potential based on current R30 Code requirements and restrictions set out in the Packham Development Potential Data Base. The balance of 58% of submissions would be affected by the down coding proposal in terms of reduced development potential that includes a large 'green field' site owned by LandCorp on Mayor Road. Most of the owners who objected that don't have development potential based on current standards already have existing houses and would stand to benefit from restrictive covenants expiring or land area development potential and redeveloping – other objectors had already realised full development potential (ie. 2 units built).

In support of the Scheme Amendment 5 submissions were received stating that there are too many unit developments in the area and the density should be decreased.

In order to achieve a reasonable outcome to the Scheme proposal 3 options are presented to Council. Each option has its own different implications as such:

Option One – Status Quo (Retain R30 Coding)

Continue with the development of the area with a density code of R30 with some properties retaining the restrictive covenants.

Implications will be that Council officers will be dealing with the issue of restrictive covenants on some lots and that confusion over potential development rights to new purchasers can be denied.

Expiry of restrictive covenants that require development to be limited to a single dwelling will regrettably lead to redevelopment where landowners realising they can achieve two or three units which may involve demolition of existing houses and improvements. City Officers will have no option but to grant approvals based on the R30 Code which will lead to an increase in unit developments within the locality.

Resident complaints to Council are expected where single house lots are redeveloped into unit sites. This is an inevitable consequence of retaining the current R30 Coding.

Option Two – Adopt the Scheme Amendment R30 to R20 (with modifications)

Proceeding with the Scheme Amendment could occur subject to the following measures to substantially address submissions of objection:-



- a) include a revision to the Scheme Text under clause 3 under DA1 of Schedule 11 that permits the continued application of the R30 Code as permitted under Table 1 of the Codes until 9 March 2007. Include the current requirement for 75% of land to be developed for single houses;
- b) exclude in the Scheme Maps that portion of DA1 within DCA6 on Mayor Road and exclude those new lots created on Anka Gardens and Rockingham Road referred to under WAPC Ref. 124183.

These changes enable affected landowners with development potential to seek the necessary approvals to legitimise development rights where these currently exist under the City's Town Planning Scheme No. 3 and exclude the newly created lots subdivided based on R30 lot sizes to enable the completion of home approvals by the City. It is also prudent to exclude the last few stages within Packham on and near Mayor Road that are in the process of being subdivided and are yet to be subdivided.

This option has a similar effect had Council been able to defer consideration of the Scheme Amendment for a period of 12 months.

#### Option Three – Adopt the Scheme Amendment (without modifications)

Continuing with the Scheme Amendment would reduce the development potential where this currently exists. This approach is at odds with the majority of submissions that oppose the adoption of the Scheme Amendment.

#### Recommendation

It is recommended that Council proceed with Option Two to adopt a modified version of the Scheme Amendment. This would allow affected landowners to legitimise development rights where these currently exist under TPS3, without compromising the intent of the Scheme Amendment which seeks to avoid indiscriminate infill housing on 75% of the land within the Packham Development Area (DA1).

In anticipation of the Hon. Minister's advice that final approval will be granted it is recommended that the amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

#### **Strategic Plan/Policy Implications**

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*



- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
- *"To conserve the character and historic value of the human and built environment."*

### **Budget/Financial Implications**

The Scheme Amendment has been prepared in-house which has reduced the costs to Council.

### **Legal Implications**

Town Planning and Development Act.  
Town Planning Regulations.

### **Community Consultation**

Community consultation was undertaken pursuant to the Town Planning Regulations. Council notified landowners of the proposal affected by the Scheme Amendment, requesting comments within 42 days. Three consecutive advertisements were also placed in the local paper during the advertising period. 59 submissions were received. 54 objections and 5 submissions in support were received.

### **Attachment(s)**

- (1) Location Plan of Submissioners.
- (2) Scheme Amendment Plan showing proposed and existing zoning.
- (3) Schedule of Submissions.
- (4) Letter from Department for Planning and Infrastructure dated 25 January 2006.

### **Advice to Proponent(s)/Submissioners**

Those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 March 2006 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

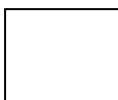


**14.2 (MINUTE NO 3099) (OCM 09/03/2006) - PROPOSED STRUCTURE PLAN - LOTS 768, 778, 779 AND 780 HAMMOND ROAD, SUCCESS - OWNERS: VARIOUS - APPLICANT: KOLTASZ SMITH (9676) (MD) (ATTACH)**

RECOMMENDATION

That Council:

- (1) receive the report:
- (2) adopt the Structure Plan applying to Lots 768, 778, 779 & 780 Hammond Road/Branch Circus, Success subject to the following Structure Plan and report modifications pursuant to clause 6.2.9 of the City of Cockburn Town Planning Scheme No. 3;
  1. relocating the south eastern most R40 grouped dwelling site boundary in order to achieve a 30 metre buffer to the resource enhancement wetland boundary as defined by the Department of Environment as shown on the revised structure plan contained with the Agenda attachments and amend the Public Open Space table and Structure Plan Report accordingly;
  2. provide for a footpath/dual use path adjacent to the wetland buffer that connects Branch Circus and Beelihar Regional Park to Hammond Road, and a second DUP within the Hammond Road reserve adjacent to the structure plan area;
  3. relocating the dual use path located east of the southern cul-de-sac to run adjacent to the south eastern R40 grouped dwelling site boundary;
  4. provision of an emergency service vehicle access gate to Hammond Road at the south eastern grouped dwelling site;
  5. include a new Structure Plan Report section relating to fire management as previously provided by the applicant in a letter dated 10 February 2006.
- (3) adopt the Schedule of Submissions contained in the Agenda attachments for Lots 768, 778, 779 & 780 Hammond Road/Branch Circus, Success;
- (4) upon receipt of a revised Structure Plan compliant with Clause (2) above, forward the Structure Plan documents and schedule of submissions to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning





Scheme No 3;

- (5) advise applicant and submissioners of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**

**Background**

ZONING:	MRS:	Urban Deferred
	TPS:	Development Zone Development Area 13 (DA13) Development Contribution Area 1 (DCA1)
LAND USE:		
LOT SIZE:	Lot 768: 1.3395 ha Lot 778: 2.0559 ha Lot 779: 1.212 ha Lot 780: 0.4582 ha	

**Submission**

Site Location and Context

The subject land area lies approximately 1.2km west of the Thomsons Lake Regional Centre, within the City of Cockburn. The land lies approximately 0.5km south of Beeliar Drive along Hammond Road and is one of several landholdings backing onto the Beeliar Regional Park. The land is immediately west of the Thomsons Lake Private Estate development and southwest of the Jandakot Caravan Park.

Zoning

Lots 768, 778, 779 and 780 Hammond Road/Branch Circus, Success comprises a small pocket of "Urban Deferred" land bounded by the Beeliar Regional Park and Hammond Road. The land has been earmarked for residential development, though is presently zoned 'Urban Deferred' under the Metropolitan Region Scheme.

Heylen Realty Pty Ltd has engaged Koltasz Smith to prepare a Structure Plan over Lots 768, 778, 779 and 780 in order to facilitate the



lifting of urban deferment to 'Urban' and also to facilitate subsequent residential subdivision. Though Koltasz Smith's appointment is with Heylen Realty, this document and Structure Plan has been prepared on behalf of, and in consult with, the owners of all lots within the Structure Plan area.

### Residential Lot Yield

The structure plan proposes residential densities of R20 and R40 (500m<sup>2</sup> and 220m<sup>2</sup> respectively). A total of twenty R20 single residential lots and eleven R40 single residential lots are proposed, along with two retained lots (retained residences) and six R40 grouped dwelling sites.

### Drainage

Drainage can be provided in those portions of public open space/buffer located outside of the 50 metre resource enhancement wetland buffer. Drainage will be in the form of an open swale/basin system, with maximum side slopes of 1:7 and a maximum water depth of 0.9m. A gross pollutant trap will be installed upstream to prevent pollutants from entering the swale, and it is anticipated that a nutrient management plan will be required from the City.

### **Report**

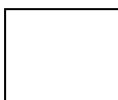
#### Wetland Buffer

A Resource Enhancement Wetland (REW) is located adjacent to the structure plan area to the south. The Department of Environment generally requires a 50 metre buffer to be provided to a REW.

The applicant met with City of Cockburn officers on site prior to lodging the structure plan to determine the extent of the wetland dependant vegetation. The structure plan was subsequently lodged and generally provided for a 30 metre buffer to the wetland as mapped by the City of Cockburn.

The structure plan was referred to the Department of Environment (DoE) for comment. The DoE provided a response requesting that a 50 metre buffer be provided to the REW.

The applicant reviewed the DoE's comments and in doing so investigated the extent of the wetland boundary as mapped by the DoE. It was determined that the DoE defined wetland boundary was located further to the south than the City's mapping and as such the structure plan generally provided for a 50 metre buffer to the DoE defined wetland boundary except in the south eastern corner of the structure plan where the R40 grouped dwelling site encroaches within the 50 metre buffer.



The applicant has subsequently lodged a revised structure plan to ensure a 30 metre buffer is achieved to the south eastern grouped dwelling site and to ensure that an average 50 metre buffer is provided to the REW as defined by the DoE. The DoE has reviewed the revised structure plan and has given its conditional approval to the revised structure plan.

Refer Revised Structure Plan and Schedule of Submissions contained with the Agenda attachments.

### Public Open Space (POS)

The structure plan is required to provide 10% POS, being a total of 5030 m<sup>2</sup>.

The proposed structure plan provides for a total of 5030 m<sup>2</sup> POS, of which, 2007 m<sup>2</sup> comprises a 20% credit for the wetland buffer area affecting the southern portions of Lots 768 and 778. The POS provided within the wetland buffer represents approximately 40% of the total POS provided. This exceeds Council policy requirements which stipulates that a buffer may attract a POS credit of up to 50%, but the total area of the buffer credit shall not exceed 20% of the total POS are to be set aside.

It is recommended that a variation to the application of Council's normal policy requirement for the provision of POS be supported for the following reasons:

- approximately 30% of Lot 768 and 29.5% of Lot 778 is required to be given up as POS in order to provide a buffer to the REW;
- only 20% of the actual POS buffer that is to be given up free of cost receives a POS credit with approximately 80% (or 8026 m<sup>2</sup>) of the buffer not receiving any credit;
- the POS buffer (1.0 ha in area or 25% of combined landholding) to the wetland provided is sufficient to satisfy the City's Environmental Services and the Department of Environment; and
- the POS provided represents an equitable distribution of POS over the four landholdings in the structure plan area and includes a central portion of useable POS.

### Conclusion

It is recommended that the Council adopt the Structure Plan as the basis for future subdivision and development of Lots 768, 778, 779 and 780 Hammond Road/Branch Circus, Success and refer the plan to the Western Australian Planning Commission for final endorsement.



## Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
  
3. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD6	Residential Rezoning and Subdivision Adjoining Midge Infested Lakes
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards

## Budget/Financial Implications

Nil

## Legal Implications

Town Planning Scheme No. 3.

## Community Consultation

The application was referred to nearby landowners, relevant government agencies and a notice was placed in 2 newspapers circulating within the City of Cockburn for a period of 21 days in accordance with the requirements of Clause 6.2.8.1 of Town Planning Scheme No. 3.

Submissions were received from the Department of Environment, Department of Conservation and Land Management (CALM), the



Department for Planning and Infrastructure (Bush Forever Office), Water Corporation, Western Power, Alinta Gas and the Public Transport Authority.

Refer Schedule of submissions contained with the Agenda attachments.

**Attachment(s)**

- (1) Site Plan
- (2) Structure Plan
- (3) Schedule of submissions
- (4) Revised Structure Plan

**Advice to Proponent(s)/Submissioners**

The Proponent and those persons who made a submission have been advised that Council is considering this item at its 9 March 2006 meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.3 (MINUTE NO 3100) (OCM 09/03/2006) - SATELLITE DISH - LOT 550; 68 BARRINGTON STREET, SPEARWOOD - OWNER/APPLICANT: J & M MONTES (3313725) (SS) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant retrospective approval for a 3 metre diameter domestic satellite dish on Lot 550 (No. 68) Barrington Street, Spearwood in accordance with the approved plans subject to the following conditions:-

**STANDARD CONDITIONS**

- 1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
- 2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
- 3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.



4. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.

SPECIAL CONDITIONS

5. The maximum pole height for the satellite dish is not to exceed 1.7 metres from the natural ground level.
6. The maximum height of the satellite dish is not to exceed 2.7 metres from the natural ground level.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval);
- (3) advise those who had made a submission of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Clr L Goncalves SECONDED Clr K Allen that Council defers the matter until the next Meeting of Council to allow Officers to visit the neighbouring properties and consult with adjoining neighbours.

**CARRIED 7/2**

**Reason for Decision**

More consultation with the neighbours is required.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Residential	
LOT SIZE:	700 m <sup>2</sup>	
USE CLASS:	P	



The applicant submitted an application to seek approval for a 3 metre diameter satellite dish on the subject property (refer to Attachment 1).

### **Submission**

The application proposes a 3 metre diameter satellite dish which has a pole height of 1.7 metres above natural ground level and an approximate maximum height of 2.7 metres above natural level of the property (refer to Attachment 2).

### **Report**

Council's Domestic Satellite Dish Policy (APD14) requires Planning Approval for all dishes in excess of 1.2 metres in diameter. The policy also specifies general guidelines to minimise the visual impact of satellite dishes and details the procedure for considering applications.

The application was referred to four (4) adjoining property owners in accordance with Council policy. Two (2) letters of objection was received from adjoining landowners, which raised the following concerns: -

1. The satellite dish will look unsightly from the objector's backyard;
2. The dish proposed is second-hand;
3. The dish could de-value my property; and
4. The dish will reduce my view to the ocean.

The proposed dish is located in the corner of the applicant's property on the lower side of existing retaining walls and fence atop which together measure 2.2m in height (refer to Attachment 3). The satellite dish has purposely been positioned in the current location due to the location of outbuildings, (situated on adjoining properties) which act as a barrier and minimise the visual impact of the dish from neighbouring properties (refer to Attachment 4). The applicant originally intended for the satellite dish to be located in the centre of their backyard and relocated the dish upon comments received from an adjoining neighbour.

Further, the applicant has also agreed to a reduced pole height of the satellite dish from 2.2 metres to 1.7 in an effort to ameliorate the visual impact from adjoining properties. These measures demonstrate the owner's intentions to erect the dish as close to the ground and below the height of adjoining structures without diminishing the capacity to receive international signals.

The photos in Attachment 4 also demonstrate the appearance of the proposed satellite dish. Although second hand and from another property, the applicant has stated that dish still functions and the dish does not appear visually obtrusive or flawed.



It is recommended that Council support the application on the basis that the satellite dish complies with Council's Domestic Satellite Dish Policy (APD14) and is located in a position that minimises the visual impact on the street and adjoining neighbours.

### **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
  - *"To conserve the character and historic value of the human and built environment."*

The Planning Policies which apply to this item are:-

APD14 Domestic Satellite Dishes Policy  
APD17 Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

Nil

### **Legal Implications**

Town Planning Scheme No.3

### **Community Consultation**

The application was advertised to adjoining properties for comment for a period of 14 days in accordance with the City's Town Planning Scheme No. 3. At the close of the submission only two submissions was received.

### **Attachment(s)**

- (1) Location Plan
- (2) Elevation Plan
- (3) Site Plan
- (4) Site Photographs





### Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 March 2006 Council Meeting.

### Implications of Section 3.18(3) Local Government Act, 1995

Nil.

#### 14.4 **(MINUTE NO 3101) (OCM 09/03/2006) - PROPOSED HOME OCCUPATION (BED AND BREAKFAST) - STRATA LOT 2; NO. 11A BEACH ROAD, COOGEE - OWNER/APPLICANT: IM & JT CHISHOLM (3317912) (SS) (ATTACH)**

##### RECOMMENDATION

That Council:

- (1) grant approval for a Home Occupation – Bed and Breakfast at Strata Lot 2 (No. 11A) Beach Road, Coogee, for the purpose of a Bed and Breakfast, subject to the following conditions:

##### STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. The development complying with the Home Occupation provisions and definition set out in the Town Planning Scheme.
4. All materials and/or equipment used in relation to the Home Occupation shall be stored within the residence or an approved outbuilding.
5. The Home Occupation Approval may be withdrawn by the Council upon receipt of substantiated complaints.
6. The Home Occupation can only be undertaken by the owner of the land and is not transferable pursuant to clause 5.8.5 (a) (ii) of Town Planning Scheme No 3.
7. On the sale of the property or change in ownership of the land the home occupation entitlement ceases pursuant to



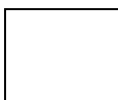
clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.

SPECIAL CONDITIONS

8. A maximum of 2 clients are to be accommodated at any one time in accordance with the applicant's submission.
9. The Accommodation is limited to only short-term stay (up to 4 weeks maximum).
10. Client check in and check out times are limited to 8am to 8pm Monday to Sunday.

FOOTNOTES

1. "Home Occupation' means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-
  - (a) does not employ any person not a member of the occupier's household;
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
  - (c) does not occupy an area greater than 20 square metres;
  - (d) does not display a sign exceeding 0.2 square metres;
  - (e) does not involve the retail sale, display or hire of goods of any nature;
  - (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - (g) does not involve the use of an essential service of greater capacity than normally required in the zone."
2. Please contact the City's Health Service on 9411 3589 to arrange for an assessment, prior to commencing operation.
3. The development is to comply with the Environmental Protection Act 1986 which contains penalties where noise limits exceed the prescribed by the Environmental Protection (Noise) Regulations 1997.



- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval).

**COUNCIL DECISION**

MOVED Cllr V Oliver SECONDED Mayor S Lee that Council adopt the recommendation subject to the deletion of Special Conditions 9 and 10, and the amendment of Special Condition 8, as follows:

8. A maximum of two clients are to be accommodated at any one time in accordance with the applicant’s submission, with the exception of a camp bed or roll up bed for children.

**CARRIED 9/0**

**Reason for the Decision**

There are a number of people from overseas who come for six and eight weeks to visit family. These may not always be a couple but a small family and this type of accommodation is all they can afford. Council should encourage more bed and breakfast accommodation to work in with tourism in the future.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Existing House	
LOT SIZE:	384m <sup>2</sup>	
USE CLASS:	Use Not Listed ‘Discretionary Use’	

**Submission**

The applicant seeks approval from Council to operate a home occupation for a bed and breakfast. A maximum of 1 couple will be accommodated at any one time, for short-term stay (up to 4 weeks). The applicant has stated that there is sufficient parking for the clients off street.

**Report**

The subject land has been developed as a grouped dwelling site based on a density code of R20 under the City of Cockburn Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.



Surrounding landowners were invited to comment on the proposal through a referral letter, as well as an advertising sign on site. One (1) objection was received at the completion of the consultation period. The main concern raised in this submission is based on the neighbour's concern for a 'commercial styled' development operating in a residential zone. The objector stated that the business would change the profile of the street and lower the standard of living, emphasising his concern of increased traffic noise and visitor's arrival and departure times.

The proposed home occupation complies with the City's Town Planning Scheme No 3. The relationship between the proposal and the adjoining neighbours is limited due to the scale of the proposed bed and breakfast. Issues of traffic congestion, and hours of operation have been addressed, with the applicant limiting book-in and leaving times between 8:00am – 8:00pm, and providing parking spaces on-site in the area marked on the attached plan. It is concluded that the impact of the home occupation in general will be minimal and the application is supported subject to compliance with the recommended conditions.

### **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

The Planning Policies which apply to this item are: -

APD17          Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

Nil

### **Legal Implications**

Town Planning Scheme No.3

### **Community Consultation**

Application was advertised to adjoining properties for comment for a period of 14 days in accordance with the City's Town Planning Scheme No. 3. The applicant also gave notice of the proposal by way of a sign



displaying the proposal to Council's specifications. At the close of the submission only one submission was received.

#### **Attachment(s)**

- (1) Location Plan
- (2) Site Plans
- (3) Floor Plan

#### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 March 2006 Council Meeting.

#### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.5 (MINUTE NO 3102) (OCM 09/03/2006) - PROPOSED SUBDIVISION - 'P' SITE CLASSIFICATION - LOT 1; 7 FLORIZEL STREET, COOLBELLUP - OWNER: DEPARTMENT OF HOUSING AND WORKS - APPLICANT: THE PLANNING GROUP (130186) (VM) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) advise the Western Australian Planning Commission that it supports the subdivision of Lot 1; 7 Florizel Street, Coolbellup into 36 lots subject to the following conditions:

#### **CONDITIONS**

#### **Lot Sizes**

- 1. The proposed lot sizes to comply with the minimum area of lot per dwelling specified in the Residential Design Code – R40 to the satisfaction of the Western Australian Planning Commission.
- 2. The applicant obtaining development approval from the Local Government for the development of a dwelling on lots less than 350m<sup>2</sup> in area, in accordance with the Residential Design Codes to the satisfaction of the Western Australian Planning Commission.

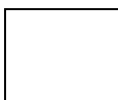


**Roads**

3. The new road reserve being a minimum width of 15 metres to the satisfaction of the Western Australian Planning Commission.
4. Those lots not fronting an existing road being provided with frontage to a constructed subdivisional road connected by a constructed subdivisional road(s) to the local road system and such subdivisional road(s) being constructed and drained at the subdivider's cost, to the satisfaction of the Western Australian Planning Commission.
5. The intersections depicted on the attached plan being designed and constructed to the satisfaction of the Western Australian Planning Commission.
6. Street corners within the subdivision being truncated to the standard truncation of 8.5 metres as depicted on the attached plan to the satisfaction of the Western Australian Planning Commission.

**Site Works**

7. The existing car parks and other improvements being demolished to the satisfaction of the Western Australian Planning Commission.
8. All old crossovers being removed and footpaths and kerbs being appropriately reinstated to the satisfaction of the Western Australian Planning Commission.
9. Measures being taken to the satisfaction of the Western Australian Planning Commission to ensure identification and protection of any vegetation on the site worthy of retention prior to commencement of site works.
10. The land being graded and stabilised at the subdivider's cost to the satisfaction of the Western Australian Planning Commission.
11. The land being filled and/or drained at the subdivider's cost to the satisfaction of the Western Australian Planning Commission.
12. The applicant engaging a qualified engineer (with subdivision experience) to prepare a pre-works geotechnical report to certify that the land does not



contain any unsuitable landfill associated with or prior to subdivisional works and that the land is physically capable of residential development including road and dwelling construction to the satisfaction of the Western Australian Planning Commission.

13. The applicant preparing a post geotechnical report certifying that all subdivision works have been carried out in accordance with the pre-works geotechnical report and the site has been adequately compacted and drained to enable residential development, to the satisfaction of the Western Australian Planning Commission.
14. The applicant engaging a qualified engineer to certify that any filling or back filling has been adequately compacted for residential development to the satisfaction of the Western Australian Planning Commission.
15. The emissions of airborne dust and sand drift must not cause nuisance to neighbours during subdivision works. Prior to commencement of any site works, a Dust Management Plan, in accordance with the Local Government Guidelines for the preparation of Dust Management Plans, is to be submitted by the subdivider to the Local Government for approval.
16. A notification under Section 70A of the Transfer of Land Act is to be prepared in the form below and lodged with the Registrar of Titles Office on the Certificate of Title of all lots for endorsement of development works. This Notification affects 36 lots and is to be sufficient to alert prospective purchasers of the geotechnical investigation and site classification including building and site construction requirements. The Notification should (at the cost of the applicant) state as follows:

*“This land has been classified ‘P’ under AS2870 – 1996, because of the presence of loose soils within the soil profile, which could lead to unacceptable settlement for a residential structure if not addressed by adequate engineering. Foundations for a ‘P’ classification need to be designed by an Engineer taking into account the conditions that have resulted in this classification. These requirements can result in additional development costs.”*

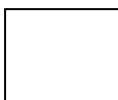
17. Retaining walls are to be provided where the angle of natural repose of the soil cannot be maintained due to earthworks associated with the subdivision to the satisfaction of the Western Australian Planning Commission.

**Other**

18. The transfer free of cost of transformer and high voltage switchgear sites to Western Power Corporation, with the location of the site(s) being to the satisfaction of the Western Australian Planning Commission on the advice of the Local Government and Western Power Corporation.
19. Street Lighting being provided within the subdivision to the satisfaction of the Western Australian Planning Commission.
20. The subdivider entering into an agreement with Council that requires geotechnical issues with the sites 'P' classification under AS2870-1996 to be addressed through a coordinated approach to building construction on all of the 36 lots proposed, in accordance with the subdivider's current intentions.
21. The Western Australian Planning Commission is reminded of the need to consult where appropriate with relevant authorities and apply conditions relating to the following matters:
  - Reticulated Water – Water Corporation
  - Reticulated Sewer – Water Corporation
  - Underground Power – Western Power
  - The provision of street lighting within the subdivision
  - Environmental advice – Department of Environment, Water and Catchment Protection

FOOTNOTES

1. In relation to Condition 9, mature vegetation should be retained and conserved where possible.
2. In relation to condition 11, there is no drainage outlet so all drainage must be contained on site.
3. The applicant is advised that a building licence is required prior to the construction of any retaining walls or other structures proposed as part of the subdivision.
4. Before any site works are commenced, the subdivider is to have provided the Local Government with information relating to existing contours and natural features, and locations of existing vegetation and the extent of earthworks and final contours for the land to the





satisfaction of the Western Australian Planning Commission.

5. The applicant is advised that subdivision construction drawings and earthworks should be approved by the Local Government prior to the commencement of site works (including the clearing of vegetation). The applicant is advised to liaise with the Local Government regarding the required form of the constructional drawings.
  6. Retaining walls installed as part of a subdivision for residential development must be designed in accordance with Australian Standard AS 1170 Parts 1 and 2 - 1989, to take live and dead loads imposed by a single storey brick and tile residence placed a minimum of 1 metre from the retaining wall boundary and the design of the retaining wall must also provide for the erection of a 1.8 metre high fibre cement fence placed on or against all boundary retaining walls to the satisfaction of the Western Australian Planning Commission.
  7. Where subdivision works includes the installation of retaining walls, the wall shall be located so that the footing and the top of the wall are fully within the boundaries of the lot on which it is constructed, and the wall is to be protected by an easement, prepared by the subdivider to the requirements of the Local Government and to the satisfaction of the Western Australian Planning Commission.
  8. No activities associated with the subdivision site works causing noise and/or inconvenience to neighbours being carried out after 6.00 p.m. or before 7.00 a.m. Monday to Saturday, and not at all on Sunday or public holidays to the satisfaction of the Western Australian Planning Commission.
- (2) request a written undertaking from the owner that the land will be fully developed by Department of Housing and Works; and
- (3) notify the applicant accordingly.

**COUNCIL DECISION**

MOVED Cllr V Oliver SECONDED Cllr K Allen that Council adopt the recommendation subject to the addition of condition 22 as follows:-



*“22. Measures being taken to the satisfaction of the Western Australian Planning Commission to ensure the identification and protection of all mature trees on the site worthy of retention prior to the commencement of site works.”*

**CARRIED 9/0**

### **Reason for Decision**

This will assist the area to be compatible with the remainder of Coolbellup.

### **Background**

ZONING:	MRS:	Urban
	TPS:	Residential R40
LAND USE:	Residential	
LOT SIZE:	1.3082ha	

The subject land was previously developed for housing by the Department of Housing and Works. The site comprised three apartment blocks referred to as Bowan Court Apartments. These apartments were demolished in 2004 as part of the Department of Housing and Work's New Living Program.

The Western Australian Planning Commission approved the subdivision of the subject site into 24 lots on 15 December 2003. This application facilitated retention of one of the three apartment blocks located on site. The apartment block has subsequently been demolished and the approval was not implemented.

On 4 January 2006, the City received a subdivision referral from the Western Australian Planning Commission in regards to Lot 1; 7 Florizel Street, Coolbellup to create 36 lots. The City is yet to provide its response to the WAPC.

### **Submission**

The application proposes to subdivide the land to create 36 freehold lots with lot sizes varying between 303m<sup>2</sup> and 354m<sup>2</sup>. A new road running between Florizel Street to Leontes Way, approximately half way along the Florizel Street frontage will be created to facilitate access to the proposed lots with frontages to a road reserve.

The subdivision has been designed in order to maximise the north facing solar access into the lots by maximising the number of east and west facing lots with northern solar access along the longer side



boundaries and the east and west along the front and rear boundaries where greater solar protection can be provided.

## Report

Geotechnical investigations are required by the City in order to ensure that property can be developed for its intended purpose. The City recommends general subdivision conditions pertaining to geotechnical matters and adopts a policy that all residential development have an 'A' classification and that Class 'P', 'H' and 'E' sites will not be accepted by Council and must be fully remediated. There are occasions when this site classification cannot be achieved and foundations need to be designed by a Structural Engineer taking into account the conditions that have resulted in this classification.

In this instance the City has been advised upfront that the entire site has a 'P' classification. Ordinarily, the City would not favour this classification over the entire site, as prospective purchasers are disadvantaged and forced to bare the costs associated with foundation design.

The applicant has advised that the Department of Housing and Works will develop the 36 residential lots with housing and therefore all engineering requirements / costs be fully borne by the developer. The applicant should still enter into an agreement with Council to fully construct dwellings on all 36 allotments and that Notifications be placed on Titles to notify prospective owners of the site classification in the event that further extensions or additions are proposed. It is recommended that Council proceed to support the subdivision in its advice to the Western Australian Planning Commission on this basis and subject to standard conditions.

## Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
  
3. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*



- *"To conserve the character and historic value of the human and built environment."*
- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

APD16A Standard Subdivision Conditions and Reasons for Refusal  
APD35 Filling of Land

**Budget/Financial Implications**

Nil.

**Legal Implications**

Town Planning and Development Act 1928  
Town Planning Scheme No. 3

**Community Consultation**

N/A

**Agenda Attachment(s)**

- (1) Subdivision plan.

**Advice to Proponent(s)/Submissioner(s)**

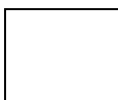
The Proponent has been advised that this matter is to be considered at the February 2006 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.6 (MINUTE NO 3103) (OCM 09/03/2006) - TOWN OF KWINANA DISTRICT STRUCTURE PLAN (EASTERN RESIDENTIAL INTENSIFICATION CONCEPT) - LAND SOUTH OF ROWLEY ROAD (FREEWAY CORRIDOR) IN THE TOWN OF KWINANA ABUTTING THE CITY OF COCKBURN (9155) (JU) (ATTACH)**

**RECOMMENDATION**  
That Council:  
  
(1) note the Report;

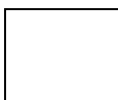


- (2) advise the Town of Kwinana that it generally supports the draft District Structure Plan (Eastern Residential Intensification Concept) and makes the following comments:
1. Existing land uses and offsite impacts – An opportunities and constraints map was produced as part of the City of Cockburn Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup (SSS3) which shows some existing land uses within the City of Cockburn that may impact on the proposed development south of Rowley Road abutting the City of Cockburn. This opportunities and constraints map is provided to Kwinana for information;
  2. Proposed residential densities – It is considered that the residential development proposed in the draft Plan abutting the City of Cockburn is appropriate and is supported, as this type of development will add to the walk on patronage of the future Mandogalup Railway Station and other facilities proposed within SSS3;
  3. Educational facilities – The City supports the location of the proposed primary school site in Mandogalup and acknowledges that this school will contribute students to the proposed high school located in the Southern Suburbs Stage 3 area;
  4. District open space and community facilities – The City is prepared to meet with Kwinana to define areas of overlapping needs in the Mandogalup and Wandi areas and future urban areas to the north of Rowley Road and explore funding opportunities and supports Kwinana internalising its district open space and community facilities;
  5. District Centre and mixed business location – The City is currently seeking advice from its retail consultant regarding the relocated district centre to Anketell Road but earlier advice suggested that there is no rationale whatsoever for proposing this centre, even as a long term possibility. The proposed mixed business site on the south side of Rowley Road is supported.
  6. Road connections and traffic volumes – Some concern is raised with the distances between the Kwinana Freeway off ramps and the potential controlled intersections at Barfield and Lyon Roads and requests that further detailed information will need to be provided. It is considered that if Rowley Road is to be designated as a freight route that the Barfield/Rowley Road intersection

will need to be grade separated. Concerns are also raised regarding the proposed connection of the realigned Lyon Road, south of Rowley Road, with the existing Lyon Road, north of Rowley. Further detailed information is required on this proposal before detailed comments can be provided.

The City has engaged a consultant currently undertaking a Traffic Study for the City of Cockburn and further comments on the projected traffic numbers connecting onto Rowley Road will be provided to Kwinana once they are available.

7. Freight routes – It is acknowledged that local structure plans should address the impacts from freight noise and make provision for noise attenuation measures such as earthen landscape bunds. However, the City also is of the opinion that the responsibility for noise attenuation should also be the responsibility of the infrastructure providers of the freight route and the producers of the traffic noise and the predominant users of the freight routes;
  8. Bus routes and bike paths – The City supports the proposed bus routes and bike paths proposed in the draft Plan. The City has indicated on the SSS3 plan a path running east-west on the northern side of Rowley Road and it is suggested that the Town of Kwinana consider placing a path on the southern side of Rowley Road given the potential of Rowley Road becoming a freight route in the future and the importance of providing good pedestrian access to the future Mandogalup Railway Station. It is crucial to ensure that safe and easy pedestrian access is maintained to the future Railway Station;
  9. Development contribution requirements – The City has initiated Amendment No. 28 to Town Planning Scheme No. 3 which proposes two new development contribution areas within the Southern Suburbs Stage 3 area. A copy of this amendment is forward to Kwinana for information. It is also requested that Kwinana provide a response to the proposed provisions in the amendment relating to the contribution requirements towards Rowley Road as comments on the amendment were not provided during the advertising period.
- (3) A copy of this report be forward to the Town of Kwinana for their information.



**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr V Oliver that the recommendation be adopted.

**CARRIED 9/0**

**Background**

The Town of Kwinana is currently advertising a draft District Structure Plan (hereafter referred to as the draft Plan) for land to the south of Rowley Road (abutting the City of Cockburn) which includes the localities of Mandogalup, Wandi, Anketell, Casuarina and Wellard (See Attachment 1 – Structure Plan Study Area). The draft Plan represents a refinement of the Jandakot Structure Plan prepared by consultants Turner Master Planners for the Western Australian Planning Commission which was adopted by the Commission in July 2005. The draft Plan is also intended to support the initiation of an amendment to the Metropolitan Region Scheme, to rezone the land from Rural to Urban Deferred.

The draft Plan is estimated to yield 12,792 dwelling units and a population of 37,100 in the long term.

**Submission**

The Town of Kwinana has referred the draft Plan to the City for comment. The advertising period closes on the 17 March 2006.

The comments provided in this Report relate to the integration and interface of the northern part of the draft Plan with the southern section of the City of Cockburn and in particular how it impacts on the development of Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup (See Attachment 2 – Draft Town of Kwinana District Structure Plan).

**Report**

There are nine main sections of the draft Plan which may affect the City of Cockburn and are discussed further below:

1. Existing Land Uses and Offsite Impacts – The draft Plan provides information on the existing land uses and impacts within the Plan area. There are a number of constraints also within the City of Cockburn, north of Rowley Road, that could potentially impact on development of the Plan area. These existing uses include turf farms, poultry farms and market

gardens. An opportunities and constraints map was produced as part of the City of Cockburn Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup (SSS3) that is to be provided to the Town of Kwinana for their information.

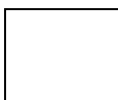
2. Proposed Residential Densities – The draft Plan proposes a base residential density code of R20 (minimum lot size 440m<sup>2</sup>, average lot size 500m<sup>2</sup>) for much of the land beyond the catchments of railway station precincts, district centres and neighbourhood centres. Those areas within the walkable catchments of centres and stations are coded notionally under the draft Plan as R25 (minimum lot size 320m<sup>2</sup>, average lot size 350m<sup>2</sup>).

The draft Plan proposes largely R25 residential development within the walkable catchment of the future Mandogalup Railway Station, south of Rowley Road.

SSS3 proposes higher residential development densities surrounding the future Railway Station.

It is considered that the residential development proposed in the draft Plan is appropriate and is supported as this type of development will add to the walk on patronage of the future Mandogalup Railway Station and other facilities proposed within SSS3.

3. Educational Requirements – The draft Plan proposes seven new primary schools and two high schools. The draft Plan compliments the proposed primary school sites and high school site identified in SSS3 and acknowledges there may be some marginal overlap in primary school catchments where some students south of Rowley Road may attend primary schools to the north of Rowley Road and vice versa. The draft Plan acknowledges the provision of a high school site on the western side of the Kwinana Freeway to the north of Rowley Road which will provide a service to future residents in the northern Mandogalup area. Given the above the City supports the educational facilities provided in the draft Plan.
4. District Open Space and Community Facilities – The draft Plan shows two district open space facilities, one in Casuarina and one in Mandogalup. The closest district facility within Cockburn is on Hammond Road with a smaller playing field proposed within SSS3 on Frankland Reserve. The draft Plan comments that it would be appropriate for the Town of Kwinana and the City of Cockburn to work together to define areas of overlapping needs in the Mandogalup and Wandi areas and future urban areas to the north of Rowley Road and explore funding opportunities. The City is prepared to meet with Kwinana to





discuss any opportunities and supports Kwinana internalising its district open space and community facilities.

5. District Centre Location and Mixed Business – The City previously raised concerns with the Town of Kwinana on the proposed location of a district centre on the southern side of Rowley Road, western side of the Freeway, based on the impacts that such a centre might have on Cockburn Central and the proposal not being in keeping with the Western Australian Planning Commissions – Statement of Planning Policy 4.2 – Metropolitan Centres Policy. The draft Plan proposes the relocation of this district centre to the northern side of Anketell Road to the east of the Kwinana Freeway. The impact of the relocation has been tested by Kwinana’s commercial study consultants, who concluded that the relocation will have a minimal competitive impact on the other centres within Kwinana and therefore support the relocation to Anketell Road, but there does not seem to be any consideration to the impact on Cockburn Central.

Earlier advice received by the City from its retail consultant supported the view that there is no rationale for proposing a district centre in the Structure Plan. Clearly, Gateways and Kwinana Town Centre could benefit from any additional population and this could help underpin the new Cockburn Central. Further advice from the City’s retail consultant on this proposal is being sought.

The draft Plan proposes the majority of mixed business south of Thomas Road, however proposes some mixed business adjacent to the Anketell district centre and along the future Rowley Road freight route. This will assist in buffering the residential areas from freight traffic impact and offers benefits from exposure to passing trade. SSS3 proposes a small amount of mixed business/commercial/home based business along Barfield Road leading into the future Mandogalup Railway Station. The proposed mixed business within the draft Plan will compliment that shown on SSS3 and is therefore supported by the City.

6. Road Connections and Traffic Volumes – The draft Plan proposes a number of road connections with the City of Cockburn including Frankland Avenue, Lyon Road and Barfield Road. The draft Plan proposes controlled intersections at Barfield and Lyon Road but does not detail if these will be traffic lights, roundabouts or other means of control.

The City’s Engineering team has raised concerns with the distances between the Kwinana Freeway off ramps and the potential controlled intersections at Barfield and Lyon and



requests that further detailed information would need to be provided to comment further. Concerns are also raised by the Engineering team regarding the proposed connection of the realigned Lyon Road, south of Rowley Road, with the existing Lyon Road, north of Rowley. Further detailed information is required on this proposal before detailed comments can be provided.

The SSS3 Plan proposes a full intersection at Barfield Road with Rowley Road which will be critical in ensuring maximum access from development to the south of Rowley Road to the future Mandogalup Railway Station and other facilities within the SSS3 area. The proposed connection shown in the draft Plan is therefore supported, however further detail is required on how this connection will be made. It is proposed by the City that the intersection be grade separated if Rowley Road becomes the dominant freight route to the Fremantle Outer Harbour.

Uloth and Associates have prepared a draft Traffic Study for the City of Cockburn with traffic forecasts for 2016 and 2031. The traffic count figures provided in the Uloth study for roads south of Rowley Road in the Town of Kwinana appear to be much lower than the figures provided in the draft Plan. At the time of writing this report the draft Uloth Traffic Study had not been finalised however, Council Officer's were seeking specific comment from Uloth on this issue.

7. Freight Routes - The draft Plan assumes that both Rowley Road and Anketell Road will become freight routes in the future given that the State Government has not made a decision on the Fremantle Outer Harbour. The City has also recognised that Rowley Road may be a freight route in the future, however the City has voiced its concern in the past (when commenting on the draft Statement of Planning Policy – Metropolitan Freight Network and related draft Statement of Planning Policy – Road and Rail Transport Noise) that further responsibility should be taken by the producers of the noise to address the issue. The draft Plan comments that local structure plans should address the impacts from freight noise and make provision for noise attenuation measures such as earthen landscape bunds. This proposal is supported, however as previously stated this responsibility should also be the responsibility of the infrastructure providers of the freight route and the producers of the traffic noise and the predominant users of the freight routes.
8. Bus Routes and Bike Paths – The draft Plan proposes a number of bus routes south of Rowley Road on Barfield Road, Frankland Avenue and Lyon Road. These proposed routes are supported by the City of Cockburn as they will link into the proposed bus routes under SSS3 and the future bus route on Lyon Road.



The draft Plan proposes bicycle paths/lanes south of Rowley Road on Barfield Road, Frankland Avenue, Kwinana Freeway and within the powerline corridor. These paths are supported as they will connect into the proposed paths within the City of Cockburn shown in SSS3. The draft Plan also recognises the importance of the historical Baldivis Tramway Trail and continues this path through the Town of Kwinana.

The City has indicated on the SSS3 plan a path running east-west on the northern side of Rowley Road and it is suggested that the Town of Kwinana consider placing a path on the southern side of Rowley Road given the potential of Rowley Road becoming a freight route in the future and the importance of providing good pedestrian access to the future Mandogalup Railway Station. It is crucial to ensure that safe and easy pedestrian access is maintained to the future Railway Station.

9. Development Contribution Requirements – The draft Plan discusses the requirements for development contributions to be collected for the upgrading and construction of new and existing infrastructure. This includes the construction of freight impact barriers along the Kwinana Freeway, Anketell Road and Rowley Road, the realignment/upgrade of Rowley Road to the west of the Kwinana Freeway in conjunction with subdividing landowners in the City of Cockburn.

The City has initiated Town Planning Scheme No. 3 – Amendment No. 28 to introduce two new Development Contribution Areas within the SSS3 area. These contributions include requirements for all landowners in the areas to make a proportional contribution of 50% towards the purchase of a nominal 40 metre wide road reserve for Rowley Road and where necessary to accommodate channelisation at intersections and drainage and towards the cost of constructing Rowley Road as outlined in proposed Schedule 12. The Amendment 28 report states that *“contributions being sought for the upgrading of Rowley Road are proposed to be split equally between the City of Cockburn developers and Town of Kwinana developers given that this road straddles both Councils.”* Amendment No. 28 has been with the Western Australian Planning Commission since August 2005 and to date no response has been received.

A copy of Amendment No. 28 is to be forward to the Town of Kwinana for their information when preparing an amendment to their Town Planning Scheme to implement the requirements for development contribution collection. The City previously referred this amendment to the Town of Kwinana however did not receive any response. A response to the provisions in



Amendment No. 28 should be sought from the Town of Kwinana.

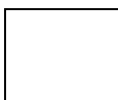
### Conclusion

The draft District Structure Plan (Eastern Residential Intensification Concept) is generally based on sound planning principles and will see the continuation of the residential corridor to the south of the City of Cockburn. The integration of the proposed uses under the draft Plan will generally compliment those uses proposed by the City of Cockburn's Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup and it is therefore recommended that the City advises the Town of Kwinana that it generally supports the proposed Plan noting the above comments.

### **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
2. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
3. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
  - *"To determine by best practice, the most appropriate range of recreation areas to be provided within the district to meet the needs of all age groups within the community."*
4. Maintaining Your Community Facilities
  - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised*



*standards, and convenient and safe for use by vehicles, cyclists and pedestrians."*

- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and convenient and safe for public use."*

The Council Policies which apply to this item are:-

SPD2            COMMUNITY FACILITIES INFRASTRUCTURE –  
                         10 YEAR FORWARD PLAN  
SPD4            'LIVEABLE NEIGHBOURHOODS'

**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

N/A

**Attachment(s)**

- (1)    Draft District Structure Plan

**Advice to Proponent(s)/Submissioners**

The Town of Kwinana have been advised that this matter is to be considered at the 9 March 2006 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

**15.1 (MINUTE NO 3104) (OCM 09/03/2006) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for January 2006, as attached to the Agenda.



**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr V Oliver that the recommendation be adopted.

**CARRIED 9/0**

**Background**

It is a requirement of the Local Government (Financial Management) Regulations 1996, that a List of Creditors be compiled each month and provide to Council.

**Submission**

N/A

**Report**

N/A

**Strategic Plan/Policy Implications**

Key Result Area *Managing Your City* refers.

**Budget/Financial Implications**

N/A

**Legal Implications**

Section 13 of the Local Government (Financial Management) Regulations 1996.

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – January 2006.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**15.2 (MINUTE NO 3105) (OCM 09/03/2006) - STATEMENT OF FINANCIAL ACTIVITY - JANUARY 2006 (5505) (NM) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated documents for the period ended 31 January 2006, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr V Oliver that the recommendation be adopted.

**CARRIED 9/0**

**Background**

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

Regulation 34(2) requires the Statement of Financial Activity to be accompanied by documents containing:–

- (a) details of the composition of the closing net current assets (less restricted and committed assets),
- (b) explanations for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents are to be presented to the Council.

**Submission**

N/A

**Report**

Attached to the Agenda is the Statement of Financial Activity for January 2006.

Note 1 shows how much capital grants and contributions are contained within the reported operating revenue.



Note 2 provides a reconciliation of Council's net current assets (adjusted for restricted assets and cash backed leave provisions). This provides a financial measure of Council's working capital and an indication of its liquid financial health.

Also provided are Reserve Fund and Restricted Funds Analysis Statements. These assist to substantiate the calculation of Council's net current assets position.

The Reserve Fund Statement reports the budget and actual balances for Council's cash backed reserves, whilst the Restricted Funds Analysis summarises bonds, deposits and infrastructure contributions held by Council. The funds reported in these statements are deemed restricted in accordance with Australian Accounting Standard AAS27.

#### Material Variance Threshold

For the purpose of identifying material variances in Statements of Financial Activity, Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality.

For the 2005/06 financial year, Council has adopted a materiality threshold of 10% or \$10,000, whichever is the greater.

#### **Strategic Plan/Policy Implications**

Key Result Area *Managing Your City* refers.

#### **Budget/Financial Implications**

As the mid-year budget review has already been conducted and was based on financial information as at 31 December 2005, any further material variances of a permanent nature will now impact upon Council's end of year surplus/deficit position.

1

It should be noted that the January Statement of Financial Activity does not include the budget revisions from the mid-year budget review, as these were adopted at the February Council meeting and will therefore be included in the February statement.

#### **Legal Implications**

Section 6.4 of the Local Government Act, 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996, refer.





**Community Consultation**

N/A

**Attachment(s)**

Statement of Financial Activity and associated reports for January 2006.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (MINUTE NO 3106) (OCM 09/03/2006) - BERRIGAN DRIVE - TEMPORARY CLOSURE (450503) (JR) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) cancel the order for the conditional closure of Berrigan Drive between Lakes Way and Hope Road between 1 March 2006 and 30 April 2006;
- (2) order the conditional closure of Berrigan Drive between Lakes Way and Hope Road between 1 May 2006 and 30 June 2006 by the Roe 7 Alliance pursuant to Section 3.50(4) of the Local Government Act, 1995, and effect the statutory notice in this regard; and
- (3) enact the order subject to no valid objection being received to the closure.

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr V Oliver that the recommendation be adopted.

**CARRIED 9/0**



## **Background**

The Roe 7 Alliance is currently constructing Roe Highway between South Street and Kwinana Freeway. This work involves the construction of the Karel Avenue bridge over the highway, to link to the existing dog-leg connection to Hope Road.

Following funding arrangements between Jandakot Airport Holdings and the State Government, the Alliance has now been engaged to also provide a bridge over the railway line on the south side of Roe Highway, thus providing a direct link between Karel Avenue and the Hope Road entry into Jandakot Airport. This will eliminate the dog-leg and at-grade crossing for through traffic. Berrigan Drive will connect as the terminating leg at the Karel Avenue/Hope Road link, with a roundabout intersection at this T-junction.

At the Ordinary Meeting of Council held on 8 September 2005, it was resolved to order the conditional closure of Berrigan Drive between Lakes Way and Hope Road between 1 March and 30 April 2006 to facilitate these works.

## **Submission**

The Roe 7 Alliance have advised that construction of the freight rail bridge on the south side of Roe Highway, which needs to be completed and opened to traffic prior to closing Berrigan Drive, is behind schedule and won't be completed until early May 2006. Consequently, they now request that Berrigan Drive be closed between 1 May and 30 June 2006 instead of 1 March to 30 April 2006.

## **Report**

It is considered that, provided adequate consultation is undertaken, the delay in the closure will not cause undue problems, and conditional approval as applied to the currently approved closure period should be given for the new period.

## **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*



5. Maintaining Your Community Facilities
- *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians."*

**Budget/Financial Implications**

Nil.

**Legal Implications**

The temporary road closure can be ordered by Council under Section 3.50(4) of the Local Government Act, 1995. There is a statutory requirement and procedure for Council to give public and written notice, and receive and consider submissions as a result.

**Community Consultation**

Consultation for the closure will be undertaken by the Roe 7 Alliance.

**Attachment(s)**

- (1) Site plan of the proposed temporary closure.

**Advice to Proponent(s)/Submissioners**

The Proponent is aware that this matter is to be considered at the 9 March 2006 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**16.2 (MINUTE NO 3107) (OCM 09/03/2006) - ADDITION OF COCKBURN ROAD TO THE MRWA NOTICE AND NETWORK HEAVY VEHICLE PERMIT SYSTEM (4331) (IS)**

**RECOMMENDATION**

That Council advise Main Roads Western Australia it endorses its proposal to add Cockburn Road (Russell Road west to City of Cockburn's southern boundary) to the Permit and Notice Network for Class 2, 3 and 4 Notice and the 27.5 Metre Long Vehicle Permit Network.



**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr V Oliver that the recommendation be adopted.

**CARRIED 9/0**

**Background**

Any vehicle that is longer than 19 metres, wider than 2.5 metres, higher than 4.3 metres or heavier than 42.5 tonnes is classified as a Restricted Access Vehicle (RAV) and requires permission to operate on the road network in Western Australia. This access is currently managed through a Permit system and Main Roads at present processes approximately 50,000 permits per year. In recent times this figure has been increasing at a rate of 9% per annum.

In many instances the roads on which these vehicles are travelling are under the control of Local Government.

Main Roads initiated the Heavy Vehicle Access Project (HVAP) as a means for improving the delivery of heavy vehicle access to industry, whilst still allowing for the safety of other road users and preservation of the road asset.

To facilitate the modification of the existing Permit system to incorporate a Notice System, described as "*Blanket approval from the Commissioner of Main Roads Western Australia for a particular class of restricted access vehicle to operate under specified conditions on a specified network of roads without the requirement to obtain individual permits*", Council at its Ordinary Meeting held on 19 October 2004 resolved to advise Main Roads WA it conditionally endorsed the proposal to change to a Notice system in lieu of the Permit system. (Minute No. 2596 OCM 19/10/2004).

**Submission**

A letter was received on 14 December 2005 from Main Roads Western Australia requesting Council's endorsement for the addition of Cockburn Road (Russell Road west to Cockburn's southern boundary) that will be used by Class 2, 3 and 4 over-length and over-width vehicles by Notice rather than the current Permit system.

**Report**

When the City agreed to the initial endorsement for Long Vehicle Permit Network (19 October 2004), Cockburn Road (Russell Road



west to Cockburn's southern boundary) was not included, due to it still being controlled by MRWA.

In July 2005, the City of Cockburn assumed responsibility for this section of road under the Department for Planning and Infrastructure and the Main Roads Act 1930 "Proclamation" MRWA 03/4577. Additional to this, MRWA have assumed responsibility for the section of Russell Road west (Cockburn Road to Stock Road) and is no longer the responsibility of the City of Cockburn.

### **Strategic Plan/Policy Implications**

An objective of the Corporate Plan is to construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

It is not expected to be any increased maintenance expenditure as these trucks currently use Cockburn Road.

### **Legal Implications**

N/A.

### **Community Consultation**

N/A.

### **Attachment(s)**

Nil.

### **Advice to Proponent(s)/Submissioners**

The Proponent is aware that this matter is to be considered at the 9 March 2006 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**16.3 (MINUTE NO 3108) (OCM 09/03/2006) - ROAD AND PEDESTRIAN TREATMENT FOR ROCKINGHAM ROAD BETWEEN STARLING STREET AND LEDA STREET (450498) (ML&SL) (ATTACH)**

**RECOMMENDATION**

That Council:

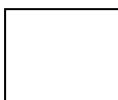
- (1) receive the report;
- (2) adopt Stage 1 of the project which seeks a review of the current posted speed limits from 60km/hr to 50km/hr and consolidates the number of and improves the remaining crossing points in Rockingham Road between Leda Street and Starling Streets as detailed in the report and included on the attached plan 2603B06;
- (3) endorse the ongoing design development of Stage 2 & 3 with the final design being subject to discussions with affected stakeholders; and
- (4) seek an additional report from the Director Engineering & Works regarding the results of discussions with Main Roads WA, the owner of the shopping centre, the adjacent land owners, the affected community and the Southern Coast Bus Transit regarding Stage 2 & 3.

**COUNCIL DECISION**

MOVED Cllr K Allen SECONDED Cllr T Romano that Council:

- (1) as recommended;
- (2) as recommended;
- (3) as recommended;
- (4) as recommended; and
- (5) investigate and report back to Council on appropriate treatments addressing safety aspects at the intersections of Davilak Avenue/Rockingham Road and Forrest Road.

**CARRIED 9/0**



## Reason for Decision

The intersection of Forrest/Rockingham and Davilak has been identified as having some safety concerns. Staff are currently reviewing appropriate treatments. Any treatments planned for these intersections may impact on Rockingham Road between Leda and Starling Streets. It is prudent that Council investigate the possible traffic safety issues at the same time and report the outcome to Council.

## Background

Between July and October 2002 two accidents were recorded which involved pedestrians endeavouring to cross Rockingham Road in the Starling Street, Leda Street precinct. Tragically one of these accidents resulted in a fatality.

In response to the accidents, Main Roads WA conducted an investigation. The results of the crash investigation and subsequent recommendations were made available to the City in July 2003.

Council has been reviewing the safety aspects of the pedestrian crossing facilities in this location since that time. Funds were made available in the 2005/06 financial year to address this issue and officers developed an option involving the reduction of the trafficable lanes from 4 to 2 largely based on the recommendations provided in the Road Safety Engineering Report. This option was released for community consultation in December of 2005.

## Submission

A three-staged road treatment for Rockingham Road between Leda and Starling Streets has been recommended to address the initial safety concerns and the issues raised through the consultation. The proposal is staged as each phase of the project is contingent on external approvals or funding from outside agencies.

## Report

### Current Statistics

Council officers are continuing to monitor the traffic in this precinct. Latest counts were undertaken in December 2005 with data suggesting that traffic volumes and speeds have been stable over the last 3 years. Specific detail is as follows:

- AWT (average weekly traffic) 14,000 vpd
- 85<sup>th</sup> percentile (speed) 67 km/hr



## Road Safety Engineering Report - MRWA

The report identifies 3 findings and 6 recommendations dealing specifically with the issues of speed along Rockingham Road, the existing pedestrian facilities and the potential for buses to obscure pedestrians view of oncoming traffic.

The proposal developed by staff addresses the following recommendations:

- (1) Employ suitable countermeasures to discourage excessive vehicle speeds along Rockingham Road in the vicinity of Starling Streets.
- (2) Install countermeasures to improve pedestrian sight distance at the intersection of Rockingham Road and Starling Street, specifically addressing the situation where a bus is standing at Hamilton Hill, Shopping Plaza bus stop (south verge, westbound). Alternatively or as a supplementary countermeasure, provide pedestrian priority facilities that effectively reduce the reliance of pedestrians on sight distance when attempting to cross Rockingham Road. Any proposed pedestrian priority countermeasure must also address safety concerns by reducing the operating speed on Rockingham Road and meet utilisation warrants.

Possible countermeasures are further explored below:

### *Discourage Excessive Speed*

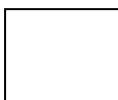
- *Possible countermeasures include Police enforcement, reduction of road space or other traffic calming measures.*

### *Improve Pedestrian Safety*

- *Provision of bus embayment at the existing bus stop.*
- *Relocation of overhead power poles from the kerb line*
- *Reducing the extent of trafficable pavement that pedestrians have to cross.*

### *Provide Pedestrian Priority*

- *Pedestrian crossings - not suitable at this location unless the large extent of trafficable pavement for pedestrians to cross is substantially reduced and the high operating speed ... is substantially reduced by effective traffic calming.*
- *Pelican crossings – should only be considered in conjunction with traffic calming measures that reduce the operation speed on Rockingham Road...and desirably a reduction in the number of trafficable lanes from 4 to 2.”*





### The Initial Proposal – Dwg No 2497B04 (Attachment 1)

Council staff developed a proposed road modification plan (Dwg No 2497B04) for Rockingham Road based on the above recommendations and countermeasures. The proposed treatment sought to:

1. Reduce traffic lanes from two lanes to one in each direction i.e. from 4 lanes to 2 which enables bus embayments to be established in either direction (refer to attachment). Whilst vehicle speed may well be reduced, it is likely that traffic congestion will be prevalent in the area during peak hours.
2. Rationalise and consolidate safe pedestrian crossing points along the road by removing those crossings that are on the departure side of a bus stop, where the visibility of pedestrians to the approaching traffic may be compromised.
3. Widen median islands to 2.8m. This provides prams or bicycles with more room for refuge.

This proposal was released for public consultation in December 2005.

### Community Consultation

Community consultation was undertaken between 16/12/2005 and 16/01/2006 and whilst the timing was not ideal, 24 responses were received. Of the responses received, 3 were in favour of the proposed road modifications, 14 responses neither supporting nor objecting, and 7 objections (see attached detail of responses). The majority of 'In-between' respondents agree that some action is necessary however objected to the lane reduction from 4 to 2. Most believe that turning lanes are necessary to facilitate better entry and exit from the adjacent shopping complex.

### Summary

Rockingham Road is a District Distributor Road. It is generally accepted that a 2 lane 2 way road is necessary when traffic volumes exceed 14,000 vehicles per day. MRWA promoted the reduction of traffic lanes from 4 to 2 due to the reduction in recorded traffic volumes from 15,085 vpd in year 1990 to 12,575 vpd in year 1997. Recent counts however show traffic volumes are remaining relatively stable at 14,000 vpd and the recent modelling undertaken by Uloth suggests that the demand on Rockingham Road may exceed 20,000 vpd by the year 2016. If traffic volumes are likely to increase, the efficiency of Rockingham Road in the future will be constrained and it will fail to provide the function of a distributor road. On this basis it would be unwise to pursue the change in priority of Rockingham Road in the immediate term until the projected traffic volumes can be confirmed.



It is noted that Main Roads WA, in their Road Safety Engineering Report identified a number of countermeasures to reduce speed in this precinct yet it did not consider reducing the speed limit from 60km/hr to 50km/hr. Whilst reducing the posted speed limit will not necessarily guarantee a reduction in speed, it can assist in alerting motorists to a change in environment and in this instance to the increased activity through the shopping precinct. It is therefore recommended that the City seeks a review of the speed limit in this location and advises the Main Roads WA that it supports reducing the speed limit adjacent to this shopping precinct from 60km/hr to 50km/hr.

The development of turning lanes in both the median and at kerbside was considered however there is insufficient road reserve width to facilitate these. Turning lanes may be provided however the City will need to resume private land on either side of Rockingham Road to ensure that turning lanes and median widths meet the technical requirements.

Clearly some action is required in this location to provide greater clarity for vehicle movements accessing and egressing the shopping complex and more defined and safer crossing points for pedestrians utilising the bus service or the shopping precinct. Part of the strategy also needs to address the many access points into the shopping complex. Officers have developed a staged program to address the many safety aspects in this area a design of which is attached - Dwg No. 2603B06.

#### *Stage 1*

The Stage 1 treatment involves consolidating the number of pedestrian crossing points along Rockingham Road. The proposal recommends the removal of 2 of the 4 crossing points adjacent to the shopping precinct and the redevelopment and promotion of the remaining 2. Both of these facilities will be suitable for disabled and pram access however grab rails cannot be established in the centre median due to its current width. Removal of these crossings will encourage a single crossing area for pedestrians of the shopping complex and for users of the bus facility.

As part of implementing Stage 1 the City will also request the review of the posted speed limit in this location and will advise the Main Roads WA that it supports reducing the speed limit adjacent to this shopping precinct from 60km/hr to 50km/hr.

#### *Stage 2*

The Stage 2 treatment will further enhance the safety for pedestrians however will better define traffic flow in and out of the shopping complex. Actions recommended include the following:

1. the installation of pedestrian signals at the main crossing point.
2. rationalise the access and egress to the Shopping Centre by removing the 2 central crossovers.



3. provide an 'internal service road' within the carpark area to link the 2 remaining crossing points.
4. remove the right turn movement from the shopping complex by establishing raised median islands for the length of the shopping precinct

This treatment would require consultation and agreement from Main Roads WA, owners of the Shopping Centre, affected householders and Southern Coast Bus Transit respectively. The benefits of this action are tangible and are detailed as follows:

- Pedestrian activated crossing provides increased safety for pedestrians and may reduce traffic speeds in this precinct. MRWA have not supported a request for pedestrian signals in the past.
- Currently the 4 crossovers from the shopping complex provide for the full movement in and out by motorists which is both confusing and dangerous. In light of the higher prominence of pedestrians in this area and the reduction in visibility through buses, power poles and other obstructions, officers believe this action is necessary. The owner of the shopping centre of course may not see the advantages as his access is further restricted.
- The reduction of crossing points enable Council to relocate the bus stops to ensure visibility for both pedestrians and motorists are improved.
- The raised median will better facilitate traffic flow along Rockingham Road. The potential for U turns at Starling Street are anticipated and will need to be modelled.

### Stage 3

The Stage 3 treatment is to further beautify the area to provide motorists with a subliminal awareness of the Shopping precinct which may help reduce traffic speed. Stage 3 would involve lodging a submission under the LEP (Localised Enhancement Program) provided by Western Power for the undergrounding of power in this precinct or extending towards Cockburn Road. This may provide the catalyst for additional streetscape and verge improvements which would also improve the aesthetics and amenity of the area. This part of the project would require significant capital costs and would not be implemented unless supplementary avenues of funding were identified.

### Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*



4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*

#### **Budget/Financial Implications**

There is \$74,111 in the current Budget, account number CW2125. This amount is sufficient to carry out the Stage 1 treatment and part of the Stage 2 treatment.

The cost of pedestrian signals at Stage 2 and the beautification work at Stage 3 are unknown at present, as in depth investigations are required.

#### **Legal Implications**

N/A

#### **Community Consultation**

This report has been prepared in response to community comments/suggestions to the proposed road modifications in Rockingham Road between Leda and Starling Streets.

#### **Attachment(s)**

- (1) The proposed road modifications plan, Drawing No 2497B04 Sheet 1.
- (2) A summary of the community consultation result.
- (3) A 3 staged road modifications concept plan, Drawing No. 2603B06 Sheet 1.

#### **Advice to Proponent(s)/Applicant**

The Hamilton Hill community and road users were advised during the community consultation (16/12/2005-16/1/2006) that the matter would be considered by Council.

#### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



## 17. COMMUNITY SERVICES DIVISION ISSUES

### 17.1 (MINUTE NO 3109) (OCM 09/03/2006) - HOPE ROAD, BIBRA LAKE BUILDINGS (1114662) (RA)

#### **RECOMMENDATION**

That Council:-

- (1) terminate the current lease agreement between the City of Cockburn and the Waalitj Aboriginal Corporation for the premises on reserve 46787;
- (2) pursuant to the provisions of section 3.58 of the Local Government Act 1995, give notice of Council's intention to enter a lease agreement with Native Arc (Inc.) for a period of two(2) years, at a rental of one peppercorn plus all outgoing costs for the premises (brick building) and its surrounds;
- (3) delegate approval to negotiate the terms and conditions of the lease to the Chief Executive Officer;
- (4) subject to the lease between the City of Cockburn and Native Arc (Inc.) being signed, demolish the old house previously occupied by Native Arc (Inc.); and
- (5) allocate \$20,000 for the demolition of the house on Hope Road, Bibra Lake, previously occupied by Native Arc with the funds to be drawn from the Community Facilities reserve fund and the budget be amended accordingly.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

#### **COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr V Oliver that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

#### **Background**

The City of Cockburn manages a number of buildings located in Hope Road, Bibra Lake.

There is a management agreement between the City of Cockburn and the Wetlands Education Centre (Inc.) for the use of a building which accommodates the Wetlands Education Centre staff and Scouts as the



primary permanent tenants. An old asbestos building on the site is occupied by Native Arc (Inc.) a group that seeks to rehabilitate sick or orphaned native animals.

The Waalitj Aboriginal Corporation has a lease arrangement with the City which expires in March 2007, for the use of the brick building (Fortini Property) and a transportable classroom on the site.

### **Submission**

Native Arc (Inc.) have written to the City seeking to relinquish its use of the asbestos building they currently occupy and take up a lease for the adjoining brick building which is currently leased to the Waalitj Aboriginal Corporation (Inc.).

### **Report**

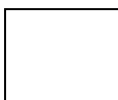
An inspection has been made of the buildings occupied by Native Arc and Waalitj Aboriginal Corporation both of which were found to be in a very poor and untidy state. Both organisations have been given notice to clean up their respective premises.

In the case of Native Arc the current premises, an old farmhouse, is quite unsuited to accommodate native animals. Notwithstanding this, Native Arc provides a valuable public service and has support from a range of organisations.

Waalitj Aboriginal Corporation, under the current lease arrangement, has use of the brick building on the site and a transportable classroom previously used by the Yonga Aboriginal School and owned by the Western Australian Education Department who confirmed this arrangement by letter dated 17 June 2002. It is evident and agreed by representatives of the Corporation that they have not been using the building and have no specific viable use for the building at the present time.

An agreement has been reached with the Waalitj Aboriginal Corporation (Inc.) to relinquish their lease of the brick building and to retain use of the transportable classroom. The Corporation has sought some storage space to be made available on the site. It is proposed that as a condition of the lease Native Arc (Inc.) provide an area in the undercroft for this purpose. There is an agreement for the Corporation to have access to the toilets at the Wetlands Education Centre which are the only ones in the vicinity that comply with Health Department standards.

With Waalitj Aboriginal Corporation relinquishing the lease of the brick building the opportunity is open for Native Arc (Inc.) to lease this building to accommodate its native animal rehabilitation activities. While not an ideal facility to accommodate a native animal



rehabilitation operation the building does have an extensive concreted undercroft to the building which is separate from the main house which would be a suitable location in the short term to house animals in rehabilitation.

Finally, the asbestos building currently occupied by Native Arc is in very poor condition and of no value. It is recommended that Council demolish this building should agreement be reached for Native Arc to take up the lease and use of the aforementioned brick building.

### **Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Area which applies to this item is "Maintaining your Community Facilities" –

- *"Maintaining and providing roads, parks and community buildings to acceptable standards."*

### **Budget/Financial Implications**

Currently, neither the building occupied by Native Arc nor the building leased to the Waalitj Aboriginal Corporation generates income. It is proposed that the new lease arrangements be at a peppercorn rental but for all maintenance and operational costs to be borne by the lessee.

The estimated cost of demolition of the asbestos building is \$20,000. It is recommended that this be placed on the budget to occur should the Native Arc lease for the brick building proceed.

### **Legal Implications**

Nil.

### **Community Consultation**

Not deemed necessary as the recommendation will not result in a reduction or have a negative impact on service delivery to residents of the City.

### **Attachment(s)**

Location Plan

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the March 2005 Council Meeting.



**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**17.2 (MINUTE NO 3110) (OCM 09/03/2006) - YANGETUP SKATEPARK AT MILGUN RESERVE (8963) (AJ) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) not proceed with the provision of a skate park in Yangebup at this time and advise the Yangebup Progress Association accordingly; and
- (2) Remove the Perena Rocchi site from the semi-permanent skate park rotation until further notice.

**COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr V Oliver that Council:

- (1) defer consideration of a skate park for Yangebup to allow the Yangebup Progress Association further time to identify a suitable site;
- (2) remove the Perena Rocchi site from the semi-permanent skate park rotation until further notice; and
- (3) remove the Milgun Reserve site as a potential site for a future skate park.

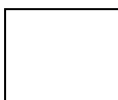
**CARRIED 9/0**

**Reason for Decision**

The Yangebup Progress Association has identified a need for a skate park in Yangebup and seeks further time to find a suitable site.

**Background**

Council allocated an amount of \$180,000 in its 2004/05 budget for skate parks to be located in the suburbs of Coolbellup, Atwell and Yangebup. At the Ordinary Council Meeting held on the 13<sup>th</sup> October 2005, the Council decided to proceed with the development of skate parks in Coolbellup and Atwell to the value of \$90,000 each. The





Council decision regarding the Yangebup skate park was to: *“request the Yangebup Progress Association to identify a new site for a mobile, semi permanent or permanent skate park for the area. On identification of a suitable site, require an item to be prepared for consideration at the next budget review meeting”*.

Ward members were advised that signage had been placed at Milgun Reserve calling for feedback on the proposed location. Due to the feedback period the item was not ready to be presented at the budget review meeting.

### **Submission**

A letter was received from the Yangebup Progress Association dated the 12<sup>th</sup> January 2006 stating “ ...we would like to nominate Milgun Reserve as the preferred site for the location of a PERMANENT skate park.”

In accordance with Council policy AEW4 – INSTALLATION OF PLAYGROUND/RECREATIONAL EQUIPMENT ON RESERVES, signage was placed at the proposed site asking for public comment on the provision of a permanent skate park. A letter drop was also done to the surrounding homes, however instead of the 50m radius as specified in the policy, the letter drop was taken out to a 200m radius from the proposed location due to the sensitivity of the issue. A total of 103 houses received the letter.

Twelve submissions were received prior to the end of the public comment period, which closed on The 7th February 2006, and one submission was received after the end of the comment period.

Of the twelve submissions received prior to the end of the public comment date, eleven expressly opposed the installation of the skate park. The one submission received exactly one week after the close date was also opposed to the installation of the skatepark. All except two of the submissions were received from residents who received the letter (i.e. within 200m of the proposal), the resident furthest from the proposed location was in Mews Court, approximately 400m away. Some of the comments from the letters are attached.

### **Report**

Previously, the City installed a semi-permanent skate park at Perena Rocchi Reserve. This was located at the park on a ‘six months on - six months off’ basis as per the February 2002 Council decision. Over the time that the skate park has been operating at this site, there have been a number of incidents of antisocial behaviour as well as numerous complaints from residents in the area.



The Milgun Reserve skate park location as proposed by the Yangebup Progress Association is approximately 150m from the currently established site. There is nothing to suggest that the previously identified antisocial issues at Perena Rocchi Reserve will not simply relocate to Milgun Reserve as the two locations have very similar features.

The City's Parks Department identified that there is a stormwater drainage sump very close to the location identified. Due to its low-lying aspect, Milgun has also been shown to be extremely water logged during rainfall periods. If a skate park were to be constructed here, there would need to be additional engineering and landfill to raise the skatepark level. The skate park would also need to be moved approximately 30m southeast to ensure it doesn't conflict with the drainage system. This would bring it in closer proximity to the houses on the eastern side of Milgun reserve.

As identified in the Ordinary Council Meeting on the 13<sup>th</sup> October 2005, the City has a number of criteria when judging proposed locations for skate parks. These criteria are:

1. A suitable amount of space is required. The City recommends at least 50m from the skate park to the nearest house. This provides a buffer zone for the dissipation of noise associated with skate activities.
2. The skate park is located on a main road with the skate park being located at least 20m from the road itself. It has been anecdotally shown that a high volume of passing vehicle and pedestrian traffic reduces the incidence of anti-social behaviour to a fraction of what it could potentially be through passive supervision.
3. It is desirable to have a small shopping centre nearby, as the users of the skate park are able to buy drinks and food. There are usually toilets located at shopping centres, which the skaters may use. This has the secondary benefit that the skate park users are more likely to go back to the skate park as opposed to skating in the shopping centre or the surrounding car parks.
4. The proximity of the skate parks to public transport routes is also desirable as this allows residents who don't live in the immediate location to travel to the skate parks.
5. Skate parks are not located on parks with significant environmental value, or where it is foreseeable that the skate park would affect the natural environment.

When compared to the above criteria, Milgun Reserve is assessed as follows:



1. The closest residence is approximately 60m from the proposed location. However the skatepark would be adjacent to a number of residential side fences, this means that there is no road or other infrastructure buffer between the skatepark and the houses. This is identical to the situation at Perena Rocchi Reserve.
2. It is located close to Yangebup road, however due to the structure of Milgun Reserve, the skate park would need to be set back approximately 70m from Yangebup road. As there are some trees lining the park on Yangebup road and the park itself dips down from the level of the road, the passive supervision that would be provided by passing traffic would be negated due to a lack of visibility.
3. The closest shopping centre is located on Yangebup road approximately 380m away.
4. There are bus stops on Yangebup road immediately adjacent to the proposed skate park location.
5. Milgun Reserve is a local reserve used for recreation and drainage.

Given the lack of any major strength, the problems involved with a lack of passive supervision, the proximity to residents without an infrastructure barrier and the residents' feedback on the provision of a skate park being located at Milgun Reserve, it is recommended that the City does not proceed with the installation of a skate park at Milgun Reserve.

From the submissions received by the City during the consultation period, it is apparent there are a number of broader issues within the Yangebup area with respect to anti-social activities, vandalism and bullying which are outside the scope of this item. This is supported by previous consultations with the community when submissions were requested from the community regarding locating the skatepark at Nicholson Reserve in Yangebup. As a result of these broader issues, there has been a general negative feedback regarding a skate park being located in the suburb. While Community Development and Safer City will address the incidents of antisocial behaviour in Yangebup, sustainable solutions to these problems are based on long-term strategies.

Nearly all submissions received by the City indicate that the residents feel a skate park would exacerbate the problems they are currently experiencing. Furthermore, it is the City's opinion that the structure and layout of Yangebup is not suited to the provision of a skate park



and the likelihood of finding a suitable location for a skate park in Yangebup are negligible. Based on a lack of acceptance by the Yangebup community and a lack of suitable locations for a skate park based on the aforementioned criteria, it is recommended that Council does not pursue the provision of a skatepark in the Yangebup area at this time.

Additionally, there has been substantial negative community feedback regarding the semi-permanent skate park located at Perena Rocchi Reserve, including a number of complaints regarding anti-social behaviour, bullying and vandalism. Specifically, there was previously a petition with thirty seven (37) signatures delivered to Council opposing to the return of the semi-permanent skate park to Yangebup. Given the negative feedback regarding Perena Rocchi reserve skate park as a result of the community consultation for a permanent skate park in Yangebup, it is recommended that Perena Rocchi reserve be removed from the predetermined rotation of semi-permanent skate parks.

### **Strategic Plan/Policy Implications**

Key Result Area "Facilitating the needs of your community" Refers.

### **Budget/Financial Implications**

There are no funds allocated to this project in the 2005/06 Budget. If the project were to proceed a budget would be required for the capital works as well as an increase in the budget currently allocated to the maintenance of the City's skate parks.

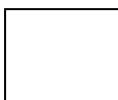
### **Legal Implications**

Nil.

### **Community Consultation**

A community forum was held between the City, the Yangebup Progress Association and other interested Yangebup residents. The purpose of this forum was to educate the wider community regarding the City's means for determining the best location for a skate park, to determine the community's desire for a skate park and determine where a skate park would best be located. The City's Youth Services and Community Development Officers have attended several Yangebup Progress Association meetings over a period of several months where the skate park has been an item on the Yangebup Progress Association's meeting agenda.

Signage was placed at the location advertising the proposed development on the 24<sup>th</sup> January 2006 and taken down two weeks later on the 7<sup>th</sup> February 2006.



A letter box drop was conducted on the 25<sup>th</sup> January 2006, 100 residents within 200m of the proposed location received this letter. Three residences within 200m of the proposed location on Grebe Gardens, Yangebup, received the letter by regular mail on the 27<sup>th</sup> January 2006.

### **Attachment(s)**

Schedule of comments received regarding Milgun Reserve skatepark location.

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the Council Meeting to be held on 9<sup>th</sup> March 2006.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

## **17.3 (MINUTE NO 3111) (OCM 09/03/2006) - LOT 7 - COCKBURN CENTRAL FACILITIES (9629) (RA)**

### **RECOMMENDATION**

That Council:

- (1) require for inclusion in the proposal for the development of lot 7 Cockburn Central for the City to own 2,850m<sup>2</sup> of floor space suitable for the purposes as identified in table 2 in the report;
- (2) enter an offer to purchase with Landcorp for lot 7 Cockburn Central with conditions that protect the interest of the City to the satisfaction of the Chief Executive Officer;
- (3) seek potential joint venture partners through an Expression of Interest process for the development of Lot 7 Cockburn Central and shortlist to tender; and
- (4) require the Chief Executive Officer to prepare a Business Plan in accordance with the requirements of section 3.59 of the Local Government Act for the project for presentation to Council following public notice being given in accordance with section 3.59 of the Act.



**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Clr K Allen that Council:

- (1) as recommended;
- (2) as recommended;
- (3) as recommended;
- (4) as recommended; and
- (5) require the Chief Executive Officer to keep Elected Members informed on the progress of the development of Lot 7 Cockburn Central with regular updates in the Elected Members' Newsletter.

**CARRIED 9/0**

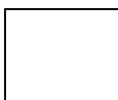
**Reason for Decision**

The development of lot 7 Cockburn Central as proposed is a significant project for the City and one in which the Elected Members have a duty to monitor.

**Background**

Council at its meeting of the 15<sup>th</sup> of August 2003 considered a report prepared by a working party established by Council at its meeting of the 21<sup>st</sup> of May 2002, which identified indicative areas for various components for a building proposed to be constructed on the Success site near the Gateway Shopping Centre. Council did not adopt the building areas proposed by the working party but rather sought to relocate the Success Library to a new larger shop front within the Gateways Shopping Centre. This was duly achieved with the library being relocated to its present shop front. The lease for the Gateways shop front Library's due to expire on the 31<sup>st</sup> of October 2008. Notice has been given by the Shopping Centre Managers that due to expansion and refurbishment of the shopping centre the library will have to relocate in September 2006 with another move anticipated 9 months later.

Council at its meeting of the 21<sup>st</sup> September 2004 resolved in part on the Community and Auxiliary purposes site next to the Gateways Shopping Centre as follows:



*To develop a concept plan for the site that includes the proposed youth facilities, landscaping, car parking and possible future library, satellite Council office, community hall/ lecturette, crèche, meeting rooms and entry foyer with gallery space for consideration by Council. The concept plan is to include any space requirements identified through the process of the calling of registrations for other tenants;*

Council at its meeting of the 8<sup>th</sup> of December 2005 also resolved in part as follows:

*Submit a Registration of Interest to LandCorp for Council to acquire land within the Cockburn Central Precinct and require the CEO to prepare a report to Council on options for the development of land proposed to be acquired.*

An expression of interest for lot 7 was duly submitted to Landcorp on the 16<sup>th</sup> of December 2005.

The Council decision of the 8<sup>th</sup> of December 2005 superseded the decision of the 21<sup>st</sup> of September 2004, with the result that Council currently has no position on the future location of a number of community facilities expected to be provided for the population living on the east side of the City. Of particular note is the long-term location of library as the current lease with the Gateways Shopping Centre expires on the 31<sup>st</sup> of October 2008.

### **Submission**

In response to the Expression of Interest Landcorp has written to the City offering for sale lot 7 Cockburn Central for the purposes of constructing a library with associated civic facilities, office accommodation, commercial space and residential units.

### **Report**

Council has submitted an Expression of Interest for the possible purchase and development of lot 7 Cockburn Central. There is currently no decision of Council to allocate funds either for the purchase or development of the site. The Expression of Interest indicated the possible location of a library, satellite Council Offices, community hall and meeting rooms and the like with the requisite parking and support facilities. There is also scope within the design guidelines established by Landcorp for the building to be multi story and to include residential units. As the envisaged building will be of significant cost, opportunities are being considered to assist in defraying the total capital cost of the project. An option open to Council is to seek, through an Expression of Interest process, a joint venture partnership arrangement, which would provide some income through the possible sale of a portion (s) of the building.



Section 3.59 of the Local Government Act 1995 the Act requires that any land transaction worth more than \$1,000,000 or 10% of the operating expenditure incurred by the local government from its municipal funds in the last completed financial year is deemed to be a 'major land transaction' and requires a Business Plan. The estimated land value of lot 7 is approximately \$1.5m and hence is deemed as a "major land transaction".

A 'major trading undertaking' is defined as a commercial activity for a profit that is worth more than \$500,000 or 10% of the local governments operating expenditure. Facilities such as the library, meeting rooms Council satellite offices and the like would not be deemed to be commercial, but should Council proceed to develop retail, leased office space and residential units they are likely to meet the threshold to be described as 'major trading undertaking'. It is recommended that Council develop a Business Plan in accordance with the requirements of the Act for the purchase and development of lot 7 Cockburn Central. This will confirm a high level of probity and transparency for the proposed development.

The Local Government (Functions and General) Regulations 1996 Part 3 Section 10 states that:-

**"10. (1)** If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person –

- (a) the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and
- (b) the business plan is to include details –
  - (i) the identity of each joint venturer other than the local government;
  - (ii) the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture;
  - (iii) any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and
  - (iv) anything to which the local government may become liable under or as a result of the joint venture."





It is evident that the City is required to identify a joint venture partner prior to the development of the Business Plan and its advertising in accordance with provisions within the section.

### **Land acquisition**

It is understood that the intent of Council is to purchase lot 7 Cockburn Central and hold it primarily for the provision of Council facilities and services. The City would then have freehold land as a long-term investment. The expression of interest submitted by the City was to purchase lot 7.

An immediate issue for Council is, should it purchase lot 7 Cockburn Central, and if so, what should it pay for the land? McGees Properties have given an indicative valuation for the site of approximately \$1.5 million. This value is based on the highest and best use with the assumption that the land can be developed, how and when the owner desires notwithstanding that the usual town planning and building conditions need to be met. Landcorp require the building to be built within approximately 2 years and it be an iconic building on the site. These requirements result in the land having a reduced value compared to land bought without such constraints.

Landcorp have proposed that independent valuations by the respective parties be sought to ascertain a sale price. It is recommended that the Chief Executive Officer be empowered to negotiate an appropriate valuation methodology and purchase price for the land for consideration by Council. An offer for the land could be made to Landcorp to ensure the land is held for the City and to demonstrate good faith on behalf of Council, with a clause, which allows the City to withdraw from the contract, should there be impediment in achieving Councils outcomes. It would also be of great benefit for the sale price of the land to be determined for inclusion in the Business Plan.

If the intent of Council is to construct, either alone or in partnership with another, building elements to be sold such as residential units or commercial retail space, there would need to be a strata entity established with a body corporate to manage the building. The nature and scope of any strata title arrangement will be a matter for future Council deliberations.

### **Council Facilities**

The intent of Council decision of the 21<sup>st</sup> of September 2004 was to plan for the future a range of facilities to be provided on the Community and Auxiliary purposes site next to the Gateways Shopping Centre site. The Council decision of the 8<sup>th</sup> of December 2005, in which it was resolved to seek approval from the WAPC for the sale of a portion of this site and to submit an expression of interest for lot 7 at Cockburn Central, in effect suggests the facilities identified for the Community



purposes site should be considered for location on the Cockburn Central site. Following is an over view of the nature and purpose of the facilities identified as being of need in the Council decision of the 21<sup>st</sup> of September 2004.

The areas proposed by the working party and submitted to the 13<sup>th</sup> of August 2003 meeting of Council, but not adopted by it, was as follows:

**Table 1**

<b><u>Facility</u></b>	<b><u>Size m<sup>2</sup></u></b>
Youth Resource Centre	50
Satellite Council Offices	50
Meeting Rooms (total area)	100
Lecturette (to seat 140)	220
Offices (3) (for Podiatry, Public Trustees, JP and the like)	48
Training Room	50
Gallery / Foyer (designed to allow for the presentation of art works and formal functions)	220
Children's Services	225
Support Services	96
Kitchen area (similar to Council reception area kitchen)	30
Staff Room (shared with all staff)	40
Storage space (final locations and sizes to be developed)	75
Library	<u>1200</u>
<b>Total Area</b>	<b><u>2404</u></b>

The space requirements have been reviewed in light of the site for the facility now being in Cockburn Central rather than in Success and in consideration of the likely Council budget, the following allocations are proposed:

**Table 2**

<b><u>Facility</u></b>	<b><u>Size m<sup>2</sup></u></b>
<b>Current</b>	
Library- stage 1	1,500
<b>1.1. FUTURE EXPANSION</b>	
Library expansion	500
Satellite Council Offices	200
Meeting Rooms (total area)	150
Children's activity (for 30 children @ 3.25m <sup>2</sup> /child)	100
External agencies services offices (JPs, Legal Aid etc)	100
Public hall/lecturette etc	300
<b>Total Area for the future (say)</b>	<b>2,850</b>



<b><u>Facility</u></b>	<b>Council Requirements</b>	<b><u>Size m<sup>2</sup></u></b>
------------------------	-----------------------------	----------------------------------

A review of the facilities proposed is provided below for consideration.

### Library

The catchment population for a library located at Cockburn Central is anticipated to be drawn from the suburbs of Atwell, Banjup, Beeliar, Bibra Lake, Jandakot, Hammond Park, Aubin Grove, Leeming, South Lake, Success, Wattleup and Yangebup.

The table below provides an overview of the estimated catchment population over time and the amount of floor space required to accommodate the book stock for that population with an allowance of 42m<sup>2</sup> of floor space per 1000 of population.

### Library Estimated Catchment Population

<u>Year</u>	<u>Population</u>	<u>Stock to match</u>	<u>Floor area</u>
2006	33 313	58 298 books	1400 m <sup>2</sup>
2011	39 802	69 654 books	1672 m <sup>2</sup>
2021	56 277	98 485 books	2364 m <sup>2</sup>
2026	64 952	113 666 books	2708 m <sup>2</sup>

The standard of 42 square metres per thousand of population is in line with the recent standards published by the State Library of Queensland. (Western Australian Standards of 33m<sup>2</sup> have not been revised since 1980 and hence do not take account of developments, especially in the area of information technology).

It can be argued using these figures that a library of approximately 1500m<sup>2</sup> would meet immediate needs for the eastern portion of the City's population. It would appear prudent for Council to include within its ownership scope to expand the library in the future by resuming an area of leased office space.

### Satellite Council Information Office

Given the size of the population on the eastern portion of the municipality and the need for Council to have a strong presence in the area it is proposed that a satellite Council office be established. From this office general Council information can be provided to residents, payment of accounts can be made and material deposited for Council's central Spearwood administration. The office could also include a



community information service for residents of the area. There are several examples, such as the City of Bayswater that established a satellite office in the Galleria Shopping Centre, which has demonstrated the value of such arrangements.

### Meeting Rooms

Several small meeting rooms ought to be available for use by the general public and Council to hold meetings for matters of interest and concern to residents of the eastern portion of the City. Such rooms would also be used by Council staff for meetings.

### Children's Activity area

There is a community expectation that facilities will be available specifically for children. Whilst it is not expected that the children's activity area will be open at all times it could be designed to allow for use by the children of library patrons and operate on an occasional basis when there is known demand.

### Leased Office Accommodation

In response to an expression of interest advertised seeking to identify those interested in collocation in a multifunctional community/youth facility on the Success community purposes site a number of responses were received from Government and not for profit organisations. The total space required for these organisations is approximately 1300m<sup>2</sup>. Council at its meeting of the 8th of December 2005 resolved to advise these organisations that it was investigating alternative facilities that could be suitable for their purposes. Informal discussions with these groups indicate that they would be most interested with a presence in Cockburn Central leasing premises. It would be of great benefit to Council to gain an agreement in principal with these agencies to lease space at a market rate.

It is proposed that Council proceed with the Business Plan and to include the purchase of the land and to retain ownership of the areas described as Council facilities and office space for lease.

A summary of the space proposed to be retained in the ownership of the City is as follows:

- |                                  |                     |
|----------------------------------|---------------------|
| • Library space                  | 1,500m <sup>2</sup> |
| • Other Council facilities       | 350m <sup>2</sup>   |
| • Office accommodation for lease | 1,000m <sup>2</sup> |

Total Space to be owned by the City	2,850m <sup>2</sup>
-------------------------------------	---------------------



Given the value of the site it is proposed that undercroft parking would be required which would cost in the vicinity of \$1,440,000 for \$800/m<sup>2</sup> for approximately 80 cars.

In summary, should Council resolve to proceed toward the purchase of lot 7 and ultimately develop facilities on the site to own and sell through a joint venture partnership arrangement the following steps are required:

1. Council to establish its requirements for the project.
2. Seek a valuation for the purchase of the land and negotiate an agreed price with Landcorp.
3. The City to enter an option to purchase the land from Landcorp at the agreed valuation price with the option being conditional to ensure the City is protected should a joint venture partner not be identified who meets the requirements of the City or the Council of the City of Cockburn wishes not to proceed with the purchase for some other reason.
4. The City calls an Expression of Interest for a joint venture partnership arrangement for the project and short lists applicants for tender.
5. Tender for a joint venture partner for the Cockburn Central project and appoint a venture partner conditional on all statutory requirements being met and ultimately approved by Council.
6. Finalise and advertise the Business Plan for the project.
7. Council to:-
  - 1) adopt the Business Plan;
  - 2) confirm its desire to purchase the land; and
  - 3) formally appoint the joint venture partner for the project.

### **Strategic Plan/Policy Implications**

To facilitate and provide an optimum range of community services.

### **Budget/Financial Implications**

Should Council seek to own 2850m<sup>2</sup> of the building and purchase the land its capital investment would total approximately \$9,400,000 of which up to \$1,500,000 would be for the purchase of the land and \$7,900,000 for the construction of portions of the building to be owned by the City. Balanced against this expenditure is any profit that could



be made from the strata title sale of portions of the building such as residential units. The profit made from such an arrangement is difficult to determine but would be more accurately estimated when the project goes to tender.

With the proposal to lease a portion of the building owned by the City to external agencies there is the potential to generate a gross income based on 1,000m<sup>2</sup> at \$150/m<sup>2</sup> of \$150,000 pa. The Business Plan proposed will provide a more detailed breakdown of anticipated income and expenditure. Although ultimately the more accurate figures will be gleaned from the response to tenders for joint venture partners.

Library Estimated Operational budget

<u>Library Size</u>	<u>Estimate of Total Staffing</u>	<u>Estimated</u>
1000 m <sup>2</sup>	11.00 FTE	\$899,000
1200 m <sup>2</sup>	11.00 FTE	\$906,000
2000 m <sup>2</sup>	17.50 FTE	\$1,473,000

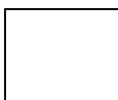
The level of staffing is predicated on the assumption of the library being staffed from 0830 to 2030 Monday to Thursday, from 0830 to 1730 on Friday and from 0830 to 1700 on Saturday and closed on Sunday.

By comparison the Spearwood Library has an operational budget of \$852,288; Coolbellup Library \$267,980 and the Success Library \$332,922 (this figure includes \$67,000 rent paid fro the shop front). The proposed Cockburn Library operational budget could be reduced with a reduction in opening hours.

The total Council operating budget for library services is \$2,360,000 pa. Should Council increase its allocation to libraries by say \$350,000 pa for the operation of a new library at Cockburn Central it would result in an increase in the libraries budget of 14.8%. The Cities population growth is approximately 3.6% pa hence over 4 years the population growth would fully justify the additional expenditure. There is a strong case to argue that in fact the population on the east side of the City is presently quite under resourced in respect to library facilities and such an increase in expenditure can be already justified to meet current demands.

**City Portion**

The cost of constructing residential units would be borne by the joint venture partner only the Council costs are shown below.



## Indicative Capital and Operational budget

Capital	
Land purchase	\$1,500,000
Building construction (2,850m <sup>2</sup> @\$2,200/m <sup>2</sup> )	\$6,270,000
Library Fit out	\$800,000
Council facilities fit out	\$ 50,000
	\$7,120,000
Fees and contingency 11%	\$ 783,200
Total	\$7,900,200

Less Profit Share joint venture works – to be quantified in a future Business plan.

**Operating**

Expenditure	
Library 1,500m <sup>2</sup> (includes wages)	\$906,000
Council facilities	\$50,000
Less saving (Success Library)	-\$330,000
Total	\$626,000

Income	
Lease of Office space	\$150,000
Hire of Council facilities	\$10,000
Total operating deficit/surplus	\$466,000

Funding for construction of this facility will come predominantly from loan funds.

**Legal Implications**

Section 3.59 of the Local Government Act requires the development and publishing of a 'major land transaction' and a 'major trading undertaking'.

If the final project leads to the creation of portions of the building for sale the requirements of the Strata titles Act 1985 would need to be met.

**Community Consultation**

A Business Plan for the project would be prepared by which members of the public and other interested parties would comment on the project.



**Attachment(s)**

Nil.

**Advice to Proponent(s)/Submissioners**

Landcorp have been advised that the matter of the purchase and development of lot 7 will be put to Council at its March 2006 meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

The provision of library, satellite Council offices and the like are matters clearly in the bailiwick of a local authority. The provision of office space for lease and residential development is an area of activity usually in the domain of the private sector. The proposed Business Plan for the project gives the community and the private sector notice of Councils intent to proceed with a commercial activity. The involvement of a private joint venture partner does to some extent mitigate the issue of local Government involvement in a commercial activity as the risk of such activity is shared with another party who has experience in this type of venture.

**17.4 (MINUTE NO 3112) (OCM 09/03/2006) - FESA RECOMMENDED EMERGENCY SERVICES LEVY (ESL) REALIGNMENT (IGA/021) (SH) (ATTACH)**

**RECOMMENDATION**

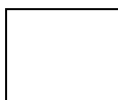
That Council:-

- (1) agree to the Emergency Services Levy (ESL) boundary realignment as recommended by Fire & Emergency Services Authority (FESA); and
- (2) advise FESA and the Jandakot Volunteer Bush Fire Brigade accordingly.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr V Oliver that Council:

- (1) defer the matter until the April 2006 Ordinary Meeting of Council;
- (2) discuss the ESL boundary realignment as recommended by Fire and Emergency Services Authority (FESA) at the Bush Fire Advisory Committee (BFAC) on 16 March 2006; and





(3) the Chief Executive Officer to advise FESA accordingly

**CARRIED 5/4**

### **Reason for Decision**

The Bush Fire Advisory Committee is the appropriate group that should be discussing this issue before it comes to Council. The volunteers of South Coogee and Jandakot both need to discuss the issues involved and look at all options with the appropriate FESA representatives. Full implications need to be addressed so that the Volunteers can feel valued.

### **Background**

With the establishment of the Emergency Services Levy (ESL) FESA created ESL boundaries, which reflected the level of service that the Fire and Rescue Service would provide to an area, and consequently the cost imposed on landowners in the area under the Emergency Services Levy. The highest level of service being the ESL 1 is serviced by FESA Brigades while ESL 3 areas see Volunteer Brigades as the first call in the event of a fire. The City of Cockburn features both ESL 1 and ESL 3 areas.

### **Submission**

FESA have written to the City advising of the need to realign the ESL boundaries due to increased residential and industrial development. FESA require a response in March 2006 to ensure that the realignment proceeds as soon as possible.

### **Report**

The current ESL boundaries see large parts of the City sitting in ESL 3 areas. As such the Jandakot and South Coogee Bush Fire Brigades are first call for any fire in these areas. The increased residential and industrial development now sees some developed areas sitting in ESL 3 zones. Consequently these developments are not afforded the same level of protection as ESL 1 protected properties.

FESA have recommended realigning the ESL boundaries to cover new developments including Aubin Grove and areas in Jandakot. As such the Jandakot Volunteer Bush Fire Brigade first response area will be reduced by approximately 20 percent. FESA discussed this issue with the Jandakot Brigade in a meeting on 20<sup>th</sup> February 2006.



FESA's rationale behind the realignment is to provide a suitable level of protection for industrial and residential areas. FESA has identified that industrial and urban developments are at increased risk compared to undeveloped areas, requiring faster response times and first call service by FESA. The volunteer brigades will be called on in a support capacity when required.

Given FESA's recommendation for the change it is recommended that Council agree to the proposed realignment and advise FESA accordingly.

### **Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

There will be no additional costs to the City as a result of the ESL boundary change.

### **Legal Implications**

N/A

### **Community Consultation**

FESA discussed the issue of ESL boundary realignments and the proposed changes with the Jandakot Volunteer Bush Fire Brigade. The final decision on ESL boundaries is made by FESA.

### **Attachment(s)**

1. Letter from FESA advising of proposal for ESL boundary changes
2. Map of changes indicated.

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the March 2005 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

## **18. EXECUTIVE DIVISION ISSUES**

Nil



**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

Nil

**21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS****21.1 (MINUTE NO 3113) (OCM 09/03/2006) - APPROVAL TO ATTEND 13 APRIL 2006 ORDINARY COUNCIL MEETING BY INSTANTANEOUS COMMUNICATION (1070) (SGC)****RECOMMENDATION**

That Council approves of the arrangement for Clr Allen to participate in the Ordinary Council Meeting of 13 April 2006, via telephone link from Sydney between the hours of 7.00 pm (Western Australian Standard Time) until the completion of the meeting.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Clr V Oliver SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

**Background**

The Local Government (Administration) Regulations enables Elected Members to participate in Council meetings under certain conditions via "instantaneous communication" channels, if they are unable to attend the meeting in person. Clr Allen has advised that he will be in Sydney, New South Wales on business on the date of the 13 April 2006 Ordinary Council Meeting and would like to participate in the Council Meeting via telephone link.



## **Submission**

For Council to approve of the arrangements for Clr Allen to participate in the Ordinary Council Meeting to be held on 13 April 2006 by telephone link-up from Sydney, New South Wales.

## **Report**

A briefing paper has previously been circulated to Elected Members outlining the likely issues which will require consideration by Council in advance of approving the arrangements and place being proposed to include Clr Allen as a participant at the 13 April 2006 Ordinary Council Meeting. Clr Allen has advised that he will be staying in a private room at a Sydney hotel yet to be advised, on the evening of the 13 April 2006 Council Meeting and will be unaccompanied. It is intended to use the room as the place from which to participant in the meeting proceedings, either by way of a hotel provided telephone or personal mobile telephone, should the room telephone not have a hands free and speaker function.

As there will be no other persons present for the duration of the connecting call and all information will be provided to Clr Allen via email to his Council computer address or, if necessary, to the hotel by facsimile, it is considered the hotel room is a suitable place for the purposes of the legislation. An appropriate telephone communication system is in place to accommodate Council's requirements.

In all other respects, the meeting processes are expected to comply with legislative requirements and it is therefore recommended that Council approves of the arrangements and place proposed to conduct the meeting.

## **Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

## **Budget/Financial Implications**

Funds are available in the Governance – Elected Members Expenditure Account 110-6246 – Councillor Communication Expenses for the cost of the telephone call.

## **Legal Implications**

Regulation 14A of the Local Government (Administration) Amendment Regulations 2005 refers.

## **Community Consultation**

N/A



**Attachment(s)**

Briefing Notes for Conducting a Council Meeting with an Elected Member(s) by Means of Instantaneous Communication.

**Advice to Proponent(s)/Applicant**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**21.2 (MINUTE NO 3114) (OCM 09/03/2006) - PROPOSAL TO SUSPECT COUNCIL POLICY SC16 ELECTED MEMBERS AREA (1030/1054) (SGC)**

**RECOMMENDATION**

That Council:

- (1) temporarily suspends Policy SC16 Elected Members Area for the duration of the current Administration building construction period; and
- (2) directs the CEO to revise the policy prior to these works being completed to reflect the changes to the area and facilities designated for Elected Members.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

**Reason for Decision**

The reason for suspending Policy SC16 (see attached) is that due to the temporary relocation of the Mayor's office into the Administration Building he is potentially in breach of our existing policy every time he enters his office. Secondly, the policy refers to facilities that are



currently being demolished and therefore are no longer valid or have been relocated to another Council building for the duration of the construction and will be substantially changed by this process.

**22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

Nil

**23. CONFIDENTIAL BUSINESS**

Nil

**24. (MINUTE NO 3115) (OCM 09/03/2006) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

**COUNCIL DECISION**

MOVED C/r K ALLEN SECONDED C/r L GONCALVES the recommendation be adopted.

**CARRIED 9/0**

**25. (OCM 09/03/2006) - CLOSURE OF MEETING**

MEETING CLOSED 8.45PM



**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

