

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 MARCH 2004 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 MARCH 2004 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Mr I Whitfield	-	Councillor
Mr A Edwards	-	Councillor
Mr K Allen	-	Councillor
Ms L Goncalves	-	Councillor
Mr M Reeve-Fowkes	-	Councillor
Mrs V Oliver	-	Councillor

IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr S. Hiller	-	Director, Planning & Development
Mr B. Greay	-	Director, Engineering & Works
Mrs S. Ellis	-	Executive Secretary
Mr C. Ellis	-	Communications Manager

1. DECLARATION OF MEETING

The Presiding Member opened the meeting at 7.00pm.

With the agreement of Council, permission was given for the media present to record the meeting.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil



3. DISCLAIMER (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 (OCM 16/03/2004) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (BY PRESIDING MEMBER)

The Presiding Member advised that a written declaration of interest had been received from Clr Allen in regards to item 14.1 and would be read aloud at the appropriate time.

5 (OCM 16/03/2004) - APOLOGIES AND LEAVE OF ABSENCE

Clr S. Limbert - Apology
Clr A. Tilbury - Apology

6 (OCM 16/03/2004) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mr A Sullivan – Ordinary Council Meeting 17/2/04 – Public Question Time – asked the following questions in regards to the recent Port Coogee Rally. A response dated 4 March 2004 provided the following information:

Q. *With regard to the rally on Sunday, he stated that it was attended by approximately 4,000 people. He asked if Council was aware that Australand are now claiming that the beaches at the Port Coogee site are in fact “unsafe and polluted with dangerous contaminants”. He questioned if Council was aware of these claims and if it has any evidence that supports Australand’s claims? If not, could Council do something to reassure the community that the beaches are safe.*

A. The City is not aware of any evidence that the beaches at the Port Coogee site are unsafe and polluted with dangerous contaminants. Similar advice was provided in a letter dated 20 February 2004.

Q. *With regard to the Australand sponsored Port Coogee Now Rally, he has received a letter from Council that Mr Lewis did not intend to hold a rally and yet it seemed that a separate rally did occur. He queried if*



Australand had the same permits etc that he was required to obtain or if they were dealt with differently.

- A. A response was provided on this matter in a letter dated 20 February 2004.
- Q. *He also asked Council what action will be taken with regards to a sign at the beach put up by Australand which has been there for about 4 days.*
- A. At the request of the City, the sign has been removed. This follows the advice given on 20 February 2004.
- Q. *In regards to a sign that CCAC erected on the Coogee Beach Progress Association's sign was removed by Council and he questioned if that was the appropriate action given that they had permission from the Progress Association to put it on their sign.*
- A. Approval to erect or re-use signs within the district rests within the local government not the Progress Association.

7 (OCM 16/03/2004) - PUBLIC QUESTION TIME

Patrick Thompson, Spearwood recalled asking Council a question a few months earlier on whether it was possible for Council to provide the Police with assistance in the administration area so that more Police could be on the street and the Mayor said that Melville Council had tried that and it was not possible to provide financial assistance to the Police Force. He was therefore surprised to see that Cockburn Council has decided to provide \$30,000 to refurbish the Police Station in Spearwood.

Mayor Lee explained that an opportunity arose where the District Support Group could be relocated to Spearwood if we could assist the Police with the refurbishment of the building. Although it is a regional resource, it would mean an extra 10-20 officers would be based in Cockburn.

Mr Thompson queried if it would be better for Council to therefore approach the Police Force in the same manner rather than Council put considerable funds into a security patrol service.

Mayor Lee advised that Council is awaiting a meeting with Minister Roberts to discuss Policing numbers in the region.

Logan Howlett, North Lake asked Council what it's policy is on the retention of public records and the duration of the retention periods as defined under the State Records Act 2000. And also what access does the public have to those public records.



Mayor Lee stated that a response will be provided in writing given that the response would need to be quite extensive.

Mary Jenkins, Spearwood asked if Council had a plan for other forms of recreation in Cockburn other than sport.

Mayor Lee responded that Council has a number of plans in place.

Greg Patterson, Coolbellup stated that Council recently agreed to sell three school sites in Coolbellup to the Education Department and build a new school on Len Packham Reserve. This reserve is covered by guidelines and there are strict moral considerations. He asked Council if it considers it has fulfilled the State Government's requirements in rezoning this reserve and exactly how does it fulfil those requirements.

Mayor Lee responded that this matter came about as a result of community consultation and at the request of the Education Department.

Director Planning added that the process for amending the land is going through the normal requirements under legislation and will be dealt with in the appropriate way. In addition, there were workshops and Enquiry-By-Design activities associated with this.

Mr Patterson requested that he have a response in writing stating exactly how Council has satisfied the guidelines in relation to section 20A Reserves.

Paul Roberts, Spearwood queried the parameters of speaking about local government in general and what the allowances were as he would like to see local government in action tonight with decency and a lack of censorship.

Mayor Lee explained that speakers at this meeting have no privilege while in this Chamber. Therefore please be careful that anyone is defamed because there could be consequences. The rules and regulations of Council Meetings are governed by the Standing Orders.

Laurie Humphreys Coolbellup referred to last year's budget allocation of \$10,000 to the Fremantle Community Policing Committee to help print pamphlets etc for neighbourhood watch which is a community initiative. An invoice was submitted in September for the funds which have not been paid and yet Council saw fit to divert that \$10,000 towards the refurbishment of the Cockburn Police Station at the last meeting. The organisation is manned and staffed by 15 volunteers who rely on Council's support and have done so for the last 10 years, but the funds have now been diverted to the Police Station. Although he congratulated the concept, he asked why the funds were taken from a community initiative and given to the Police.



The CEO will investigate the issue of the non payment of the invoice and advise Mr Humphreys in writing.

Michelle Shave, Hamilton Hill regarding the policing issue asked why there was a need for having more police and what is Council doing to address the need for increased policing.

Mayor Lee responded that Council takes a leading role in many initiatives to assist and therefore a response will be provided in writing outlining those initiatives.

Fred Hancock, in relation to item 14.12 stated that he made a submission on behalf of the Catholic Parish. They are concerned that their submission has not been properly represented to Council in the Schedule of Submissions and does not reflect that, as the neighbouring property, they support their neighbour being entitled to rezone their land but do object to the structure plan. The Schedule of Submissions simply shows them as "support". Council is rezoning the land and also adopting the structure plan and it is the structure plan that they are concerned with. He wondered if anyone else listed in the submissions may be in the same situation of supporting the rezoning but not the structure plan. In particular, they are zoned 'special use 16' and this proposal is for 'special use 10' and they are concerned that the structure plan proposes to abut 14 lots immediately behind the church and hall.

Director Planning explained that all the submissions were assessed by staff. There are other examples of schools adjoining residential in the district and as the school has to abide by EPA standards in terms of noise at its boundary, the officers believe the proposed structure plan is acceptable.

Des Broom, referred to item 14.14 and requested Council's support for the rezoning of the site to include the additional use of child care. The reasons being that ABC Learning have conducted a full feasibility in the area and determined this site the best location for a child care centre; there were no major objections by local residents; current DEP blanket policy is based on similar model at Munich International Airport and no direct comparison between Munich and Jandakot Airports should be drawn; the DEP recommended an independent Acoustic Consultant be employed who conducted a full onsite investigation. Their findings are that the site can be used for this purpose provided that construction is in accordance with Australian Building Standards 2021.

Andrew Sullivan, representing Coogee Coastal Action Coalition (CCAC), stated that CCAC had spent over 2 years researching the community needs and planning policies and based its submissions on the facts provided to



them from sources such as the Department of Planning and Infrastructure, and yet the Officer's Report effectively dismissed that information.

He believed the officer's reports were full of holes and the information provided appears to have been wilfully or unwittingly provided in a manner that selectively favoured the outcome the officers had always been pushing for without giving a fair assessment of the planning issues raised. For example, the report states that Hillarys has 400 boat pens when it actually has around 800 pens with capacity for 1,000.

This is a situation where a developer is buying 47 hectares of our land for a dirt cheap price and getting 30 hectares of seabed land for free. They are about to be granted unprecedented planning concessions along the coast, the likes of which have never been seen in WA before, and breaking almost every requirement of the State Coastal Planning Policy.

It is accepted that Council will probably recommend approval of this development to the Planning Minister essentially as it is, however there are three elements that CCAC would like Council to consider:

- Guarantee that Australand promises the marina village will serve the regional community and not just the locals and that those promises are put into planning statutes. The floor area of the commercial development at that site needs to be increased and legally binding mechanisms are needed to guarantee that a Hillarys like atmosphere will be provided.
- Recognise that if Australand are allowed to obliterate about 1km of coast, they should at the very least, make sure that the 500m left is truly enhanced for community use. Ensure that the seawall is taken down and not replaced and that there must be a wide foreshore reserve from Coogee Beach to the marina.
- The Coogee ridgeline must be protected on both sides of the ridge and not just the east side and that Council restricts the road and houses to below the 25m contours.

Director Planning responded that Mr Sullivan was correct in regards to there being 800 boat pens at Hillarys however, only 400 of those are available for public use with the rest controlled by the Yacht Club and as Port Coogee Marina does not include a yacht club, only the 400 public boat pens were referred to in the report.

Patrick Thompson, Spearwood felt that Council was throwing away millions of dollars in opportunity and should have been handling this project rather than a developer. He referred to the report regarding the noise issue of relocating sand and asked who would be paying to pump sand in future years.

Mayor Lee explained that it is intended to impose a specific area rate only to



the properties within the boundaries of the development and that rate will be met by those people alone and that will occur 5 years after the developers have completed the development and the maintenance is then paid for by the specific area rate. He stressed again, that this will be only to the residents of the development and not to the other residents of Cockburn.

Laurie Humphreys, Coolbellup in regards to point 6.4 relating to additional boat pens being suggested to go north of the power house, he asked if there has been any public comment on this. He asked for clarification given that the report mentions the possible need for additional boat pens but also mentions that the proponent has agreed to contribute towards a boat launching ramp near the Cockburn Power Boat Club in Woodman Point and asked which option is preferred by the officers.

Mayor Lee explained that the report reflects a preference for the launch ramp to be at Woodman Point however, if the Minister or WAPC wish to see more boat pens within the marina area itself, there was an alternative that could be considered. Regarding public consultation, this recommendation had come about as a result of submissions for more boat pens.

Director Planning added that it was suggested there may be a demand for around 1000 boat pens over the next 10 years. The marina proposes only 330 pens, therefore an option to increase pen numbers to meet that likely demand was to increase the water body within the marina. One suggestion, without making major changes to the proposed structure plan, was to extend the marina 300m north near the southern end of the power station. This would include enough water to provide 220 new pens and if that was done, there would be opportunity to provide a boat ramp if required between the power station and residential areas, should it be decided that the marina be increased to include additional boat pens.

Darren Jones, ratepayer asked who has the right to give away ocean to someone for free.

Mayor Lee explained that this contract is a deal negotiated between the State Government and the developers.

Mary Jenkins, Spearwood was concerned with the long term management and related expenses of the development after 5 years.

Mayor Lee reiterated his previous comment that any expenses associated within the development are to be met by a specific area rate that is only to be paid by the residents within the development. That is part of the environmental conditions agreed to by the EPA.

Chris McMillan, Hamilton Hill has asked on previous occasions about the



car parking for the public and has been unable to get an answer.

Director Planning advised that this is not easily resolved because the structure plan shows indicative areas for car parking within the road reserves and also on private land. That is a matter to be resolved during subdivision and the development process. All developments within the project will have to comply with the Scheme provisions.

Mr McMillan also referred to the Busselton scenario and litigation expected against the Council and asked if Cockburn will be in the same position in 10 years time.

Mayor Lee responded that this is a totally different scenario in that the EPA has given their approval to this development.

Paul Roberts, ratepayer felt that this, possibly the biggest issue ever for Cockburn, should be an occasion where the local government brings people together to talk but was critical of this not being the case.

Mayor Lee responded that Council allows freedom of speech and welcomed everyone's input.

Logan Howlett, North Lake asked the following questions in regards to the authority of this Council:

Q. How far can this Council commit itself for the ratepayers of this district into the future? What authority does this Council have to commit this Council and the community passed May 2005?

A. This Council has the power and is responsible to act on a daily or monthly basis as best it sees fit and it will do so.

Q. On a specific area rate which will protect all other ratepayers apart from those who live within the confines of this proposed development, this Council tonight will ensure for ever more in the future, that we who choose to live outside, will not be impacted financially or in any other way, this Council will tonight commit all future Councils elected by the ratepayers of the district to that?

A. The question is extremely complicated, therefore it will be taken on notice given that it involves legal matters and a written response provided.

Q. Has any Councillor who has not been offered hospitality by the proponent of this development, or any of its agents, to stand to indicate that they have not received in the last six months, any form of hospitality including luncheons etc?



- A. Mayor Lee responded that he would not ask Councillors to do that.
- Q. Has any Councillor or Senior Officer expressed an interest in any form or manner (verbal/written) to acquire a block or facility on this proposed development to the proponent or any of its agents?
- A. Mayor Lee stated that he can only answer for himself and the answer is no. He cannot answer for any of the Councillors or officers nor would he ask them to do so.

Glen Diggins, Coogee was concerned at reported comments Council was going to rubber stamp the proposal, because he believed that all the Councillors have spent many hours considering huge amounts of information both in favour and against the development and he was optimistic that Council will look more broadly at the positive impact that this will have in a very significant way on other parts of the City and that a development of this size and nature, will be a catalyst for raising the perception of the value of the City of Cockburn.

Trudy Van, ratepayer agreed that there should be development that would clean up the area, just nothing over the seabeds.

Mercy ?, Spearwood voiced her support for the project.

Zoe Inman, Coogee asked Councillors if they truly understood the implications upon the community, the beaches, reserves and lifestyle amenities by passing this development. She asked Council to consider the many submissions and keep the people they represent in mind when making their decision.

Anthony Dersaviour, Spearwood spoke in favour of the proposal as he felt that the beach is not a heavily populated beach which was a shame as it is one of the nicest beaches along the coastline and that people were more inclined to travel to Scarborough or Hillarys to enjoy a beach with a good café, somewhere to relax and enjoy the scenery.

Hugh Needham, Coolbellup thanked certain Councillors for taking the time to look at the damage to the groyne and asked what would happen when two large groynes are put in. He was against any development that takes the beach away or damages a pristine beach and reminded Councillors that they are making the decision for the ratepayers of the City and the people of WA and not just the residents of Coogee so think before they vote.



Naomi Harris, Spearwood spoke for the development and stated that it was about time Council made a decision on this issue as it could be a good outcome for everyone of Cockburn.

Frank Johnston, Coogee was concerned that the car parking situation is not known and asked if car parking was going to be classified as public open space. Also, will the hill or escarpment be cut away and flattened so that the development will be a similar level to Cockburn Road and will the limestone from the ridge be used as part of the infill for the marina housing development?

Mayor Lee stated the car parking would not be classified as public open space. Cockburn Road will be diverted.

Director Planning explained that the drawings show it will be graded up to the top of the ridge and probably retained by walls (terracing). The earthwork plan shows cut and fill across the site and there will probably be a lot of spoil brought in for the groynes etc.

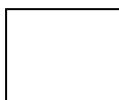
Robyn Scherr, Coogee spoke against the development as she believed the beach and coast belongs to everyone and no one has the right to build or privately own any part of the beach.

Ian Henderson, Hamilton Hill spoke against the development and asked what people were going to do when they go to this place to swim when it has destroyed the beach. He voiced his concern that the sand transfer system at proposed for this development is identical to the one at Geographe Bay which does not work adequately.

Steve Comley, ratepayer was in favour of the development because he was not able to properly enjoy swimming in the area during his childhood because of the industry and effluent pumped into the ocean. This was an opportunity for his children to be able to enjoy the beach and urged Council not to leave it too late.

Ann Sutton-Babel, Coogee spoke against the proposal as she believed it was wrong to build a canal housing development over a beach that is Cockburn's best asset. Any projection out of this site will still have sand caught up on the north side of it which means erosion of Coogee Beach. She agreed that more good community pleasure boat water access was needed but not in this current proposal's way.

Frank O'Burmas, Coogee asked if Council was aware the State Government's policy on canals and other artificial waterways says that



Council must approve the Waterways Management Plan before it approves the local structure plan and if so, why is Council ignoring it.

Director Planning responded that the decision of the EPA was that the Waterways Management Program could be resolved prior to the local scheme being finalised for subdivisional development. Tonight's decision is a recommendation to the State and the State will make the final decision whether to approve the amendment or wait until the subdivisional development prior to finalising any arrangement through the local waterways management.

Mr O'Burmas referred to the review of the plan which took into account the future boating requirements of the area and mentioned additional boat pens. He asked if any other factors were taken into account other than boating which is only one factor?

Director Planning advised that the report responds to submissions indicating a need to provide 1000 boat pens over the next 10 years. The Coogee proposal didn't include sufficient pens to meet this demand so research was done to identify where additional boat pens could be created and the suggestion in the report was a way of achieving that.

Carmelo Amalfi, Beeliar stated that the area has needed cleaning up for a long time and asked what Council has done to clean the beach and fix the foreshore and what will happen to the rehab that has been done so far on the dunes.

Mayor Lee responded that Council has, over many years, been pushing the State Government to have this area cleaned up and will continue to do so. Council and the community rehabilitated the dunes and it is intended for Council to maintain them.

8. CONFIRMATION OF MINUTES

8.1 **(MINUTE NO 2330) (OCM 16/03/2004) - ORDINARY COUNCIL MEETING - 17/2/2004**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 17 February 2004 be accepted as a true and accurate record.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 8/0



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 (OCM 16/03/2004) - DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER

Nil

AT THIS POINT THE TIME BEING 8.32PM, MR D. GREEN LEFT THE MEETING.

13. COUNCIL MATTERS

13.1 (MINUTE NO 2331) (OCM 16/03/2004) - MINUTES OF THE COCKBURN SECURITY SERVICES COMMITTEE 19 FEBRUARY, 2004 (8957) (DMG) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Cockburn Security Services Committee dated 19th February, 2004, and adopt the recommendation contained therein.

COUNCIL DECISION

MOVED Cllr L Goncalves SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 8/0



Background

The Inaugural Meeting of the Committee was conducted on 19th February, 2004, to consider presentations by the City of Melville and Council staff in relation to security service options for the City of Cockburn.

Submission

N/A

Report

Refer to Committee Minutes. In summary, the Committee supports obtaining a fee for service estimate from the City of Melville to extend its Security Patrol / Liaison Service into the City of Cockburn, for consideration in conjunction with the Business Case currently being prepared, pursuant to previous Council decisions on this matter.

Strategic Plan/Policy Implications

Key Result Area "Facilitating the Needs of Your Community" refers.

Budget/Financial Implications

Should the proposal to introduce this service into the City of Cockburn during 2004/05 proceed, a service charge (levy) will apply to properties in the district as the funding source for the service.

Legal Implications

Sec. 6.32 of the Local Government Act, 1995, and Reg. 54 of the Local Government (Financial Management) Regulations refer.

Community Consultation

Extensive public consultation through "Cockburn Soundings" and independent market research was conducted on this matter during 2003.

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

Nil.



13.2 (MINUTE NO 2332) (OCM 16/03/2004) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 19 FEBRUARY, 2004 (1054) (DMG) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee, as attached to the Agenda, dated 19 February 2004, and adopts the recommendations contained therein.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 19 February 2004. The Minutes of the Meeting are required to be presented to Council and its recommendations considered by Council.

Submission

The Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting are attached to the Agenda. Items dealt with at the Committee Meeting form the Minutes of that Meeting.

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.

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

Committee Minutes refer.

13.3 (MINUTE NO 2333) (OCM 16/03/2004) - LOCAL GOVERNMENT STATUTORY COMPLIANCE RETURN - 2004 (1332) (DMG) (ATTACH)

RECOMMENDATION
That Council adopt the Local Government Compliance Audit Return for the period 1 January 2003 to 31 December 2003, as presented.

COUNCIL DECISION
MOVED Clr A Edwards SECONDED Clr L Goncalves that the recommendation be adopted.
CARRIED 8/0

Background

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 100% for the year.

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

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

Nil.

13.4 (MINUTE NO 2334) (OCM 16/03/2004) - 2004 ANNUAL GENERAL MEETING OF ELECTORS - MOTION - CONFIDENCE IN THE CITY OF COCKBURN (1713) (DMG)

RECOMMENDATION

That Council note the Motion of Confidence carried by the Annual General Meeting of Electors which supports the work done by all elected members and officers of the City of Cockburn during the previous year.

COUNCIL DECISION

MOVED Cllr A Edwards SECONDED Cllr L Goncalves that the recommendation be adopted.

CARRIED 8/0



Background

At the Annual General Meeting of Electors conducted on 3 February, 2004, the following motion was carried:-

“A vote of confidence in the Councillors and Officers of the City of Cockburn on the basis of the work they have done during the year.”

Submission

To note the motion carried.

Report

While the motion carried indicates a positive attitude in the community towards the way Council and its staff are performing, it is not a decision for which any further action being taken by Council is possible.

Therefore, it is suggested that the motion be noted.

Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.

Budget/Financial Implications

N/A

Legal Implications

Sec. 5.33 of the Local Government Act, 1995, requires all decisions made at electors meetings to be formally considered by Council.

Community Consultation

N/A

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

Nil.

AT THIS POINT THE TIME BEING 8.35PM, MR D. GREEN RETURNED TO THE MEETING.

Declaration of Financial Interest

Clr Allen declared an interest in agenda item 14.1. The nature being due to the proximity of his property to the proposal.



The Presiding Member advised that permission had been granted by the Department of Local Government under delegated authority from the Minister, for Clr Allen to participate in this matter.

14 (MINUTE NO 2336) (OCM 16/03/2004) - EXTENSION OF TIME

COUNCIL DECISION

MOVED Deputy Mayor R GRAHAM SECONDED Clr I WHITFIELD that at this point, the time being 8.58pm, the meeting time be extended by a maximum of 1 hour, in pursuance of clause 4.13 of the Standing Orders.

CARRIED 8/0

14.1 (MINUTE NO 2335) (OCM 16/03/2004) - PROPOSED PORT COOGEE MARINA - TPS NO. 3 AMENDMENT NO. 3 AND ASSOCIATED STRUCTURE PLAN (93003; 9662) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report which includes the attachments – Port Coogee Marina Project – Volume 1 Assessment and Recommendations, Volume 2 – Public Submissions and the Schedule of Submissions;
- (2) adopt the recommendations made in the Schedule of Submissions included in the Report on Proposed Port Coogee Marina Project – Volume 2 – Public submissions, attached to the Agenda for both Amendment No. 3 and the Local Structure Plan;
- (3) adopt the Amendment with the following modification:-

- add points 9. and 10. to the Eleventh Schedule – Development Areas, Development Area DA22 under the Provisions column of the Schedule as follows:-

“9. *The design, construction and development within the Development Area, shall have due regard for the principles, objectives and criteria contained in the Sustainability Strategy prepared by the developer for the Port Coogee Marina.*



10. *The Neighbourhood Centre shown on the Structure Plan located on Cockburn Road at the southern end of the Development Area is restricted to the following uses:-*

- *Fast Food Outlet (P)*
- *Health Studio (D)*
- *Medical Centre (D)*
- *Convenience Store (A)*
- *Lunch Bar (P)*
- *Petrol Filling Station (A)*

where the permissibility (P), (D) and (A) is in accordance with cl. 4.3.3 of Town Planning Scheme No. 3.”

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;

- (4) request the Department of Local Government and Regional Development proceed with the adjustment to the District Boundary to the City of Cockburn so as to incorporate the proposed Port Coogee Marina consistent with the boundary to the Urban Zone created under Amendment 1010/33 to the Metropolitan Region Scheme;
- (5) adopt with modifications the Local Structure Plan dated October 2003 prepared by Taylor Burrell Barnett on behalf of Port Catherine Developments Pty Ltd, under Clause 6.2.9 of Town Planning Scheme No. 3 and forward the Plan to the Western Australian Planning Commission for endorsement under Clause 6.2.10 of the Scheme, subject to the Plan being modified to:-
1. reduce the area of the proposed neighbourhood centre, located in the southern sector of the project area, by relocating the retail floor space component into the Marina Village and only retaining in the centre those businesses that rely on main road frontage, such as fast food outlets and petrol filling stations;
 2. install a pedestrian/bicycle underpass under the realigned Cockburn Road to provide a convenient link between the project area and the Beeliar Regional Park.
- (6) advise the Western Australian Planning Commission that the Council’s adoption of the modified Local Structure Plan is subject to the following requirements:-
1. The Plan as presented not be assessed under the Liveable Neighbourhood Community Code as it has not adequately addressed the Code requirements, and therefore the Plan be treated as a “traditional” Structure

Plan.

2. The proposal be dealt with as a “development node” under Provision G(e) of Schedule One of the State Coastal Planning Policy.
 3. The planning, construction and ongoing management be undertaken in accordance with EPA Bulletin 1060.
 4. Should additional boat pens be required within the marina, then the plan be reviewed by the Commission in conjunction with the proponent to explore the opportunity of creating a small boat harbour and public boat launching facility within the marina basin by relocating the northern groyne northwards to join the coast north of the water exchange pond at the front of the disused South Fremantle Power Station in accordance with the suggestion contained in Section 3.2.17 of the Council Report.
 5. The State Government underwriting the project to ensure that the proposed Port Coogee Marina is completed in accordance with the adopted and endorsed Structure Plan, all planning conditions and environmental requirements in order to protect the public, the local government and the Waterways Environmental Management Program Manager against any liability arising from the developer not completing the development as approved, or the failure of the marina to achieve the structural and environmental outcomes required under any approval or the State Project Agreement;
- (7) advise the applicant and the Western Australian Planning Commission of matters to be addressed and resolved to the Council’s satisfaction prior to the clearance of the first plan or diagram of survey, namely:
1. The proponent to prepare a plan for the development, revegetation and ongoing management of the Beeliar Regional Park east of the ridge line, where recovered groundwater will be irrigated as part of the groundwater management program.
 2. The proponent providing a written undertaking that the Marina Village will form an integral part of the staged development of the project and the land designated for the village will not be excised from the project area for sale to a third party as a future development site.



3. The proponent contributing towards a boat launching facility in accordance with the commitments made under the State Project Agreement for Port Coogee by upgrading and expansion of the public facilities existing adjacent to the Cockburn Power Boat Club at Woodman Point, unless the marina is modified in accordance with Recommendation (6) 4 above.

4. The proponent undertaking to:-

- acknowledge the Omeo wreck by the erection of an “interpretative plaque” appropriately located in the vicinity,
- demonstrate that adequate boat manoeuvring space between the private jetties and the marina boat pens to facilitate large pleasure craft has been provided in accordance with Western Australian Planning Commission Policy DC 1.8;
- prepare a detailed staging plan for the development;
- erect signs as provided for under Clause 11.11 of the local scheme, to advise the public visiting and purchasers of land within the project area of future land use and development proposals yet to be commenced or completed;
- provide car parking provisions in support of the marina facilities in accordance with the standards contained in the local scheme, or otherwise agreed by the Council;

(8) advise the applicant and the Western Australian Planning Commission that the following Management Plans and Programs be prepared and completed to the satisfaction of the Commission and the Environmental Protection Authority prior to lodging an application for subdivision approval in accordance with the adopted and endorsed Local Structure Plan, namely:-

1. Remedial Works Management Plan
2. Construction Management Program
3. Waterways Environmental Management Program
4. Noise and Vibration Management Plan;

(9) advise the applicant, the Western Australian Planning Commission and the Environmental Protection Authority that in respect to the Management Plans the following additional matters be addressed:-

1. Remedial Works Management Program consists of:-
 - (a) Public Safety Plan

The Public Safety Plan should ensure maximum access along the beach and the pedestrian cycle trail. Where restriction of the pedestrian and cycle trail is necessary, appropriate 'detour' routes should be identified.

(b) Dust Management and Monitoring Plan

Appropriate contact people need to be identified to receive complaints from the public over construction activities, including dust management, traffic problems, health concerns, and other impacts.

(c) Contaminated Stormwater Management Plan

The outline for this plan refers to 'monitoring' and 'contingency measures'. The plan needs to also address initial planning and layout of excavation, pit design and truck loading to minimise the potential for stormwater to contact the contaminated material. The plan should not only focus on stormwater run-off but also on contaminated stormwater soaking into the groundwater. Disposal options may also need to be considered.

2. Construction Management Program consisting of:-

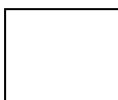
- (a) Management procedures and a monitoring program for the protection of marine water quality, flora and fauna within the vicinity of the marina, including seagrass meadows.

The monitoring program should include quantifiable criteria, including turbidity and, where possible, monitoring should be continuous. Trigger levels should also be clearly stated that require particular management responses.

- (b) Vegetation Management Plan to adequately mitigate the loss of native vegetation and the loss of portions of Beeliar Regional Park

This will require significant consultation with CALM, City of Cockburn and the community to ensure replacement of not only vegetation but replacement of environmental values. This will also require on-going maintenance of the rehabilitated area until the vegetation is fully established.

- (c) Contingency measures if monitoring reveals unacceptable impacts to marine flora and fauna



“Unacceptable impacts” need to be well defined through the plan. Contingency plans need to recognise the expertise that will be on-site if site managers are responsible for determining the acceptability of impacts.

- (d) Strategies for the management of changes to coastal processes in the vicinity of the marina during the construction phase;
- (e) Strategies for the management of dust, noise and vibration during construction;

A complaints telephone contact should be established that will allow members of the local community to speak to on-site personnel if they have a problem with noise, dust or vibration during construction.

In addition the Construction Management Program should include a requirement that any existing man made sea walls or revetments that are not removed as part of the development, be either removed, rehabilitated or replaced in accordance with engineering advice to ensure the public beach is safe, attractive and forms a suitable transition between Coogee Beach and the marina development.

- (f) The implementation of construction measures that will ensure that rocks and other material do not wash from the groynes onto the adjoining foreshore and seabed.

3. Waterways Environmental Management Program:

The Waterways Environmental Management Program be completed, by nominating a Waterways Manager.

4. Noise and Vibration Management Plan including:

Show how noise-sensitive premises can be protected from adverse noise and vibration impacts from the adjacent rail line and vehicle traffic.

The Noise and Vibration Management Plan should also address the noise from sand by-passing operations. Given the frequency of operations and proximity to residents the management of noise and beach access

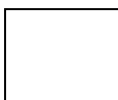
could be a potential issue.

- (10) advise the Western Australian Planning Commission that should the Local Structure Plan for Port Coogee Marina be adopted and endorsed that it be formally recognised as the final plan for the marina for the purpose of proceeding with the review of the North Coogee Master Plan so that detailed planning and design can be commenced for the marina with certainty;
- (11) request reports be prepared by the Planning and Development Division for the Council's consideration on the following matters which are external to but associated with, the development of the Port Coogee Marina, namely the implications of the Marina development on:
 - Ocean Road, Spearwood
 - Spearwood Avenue, Spearwood
 - McTaggart Cove and Robb Road, Hamilton Hill
 - Fremantle to Rockingham Highway (Cockburn Road)
 - Beeliar Drive, Munster
 - Beeliar Regional Park, Spearwood
 - South Fremantle Power Station, Coogee
 - Coogee Beach Shop and proposed Café/Kiosk, Coogee
 - Fremantle to Midland Railway line.

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Deputy Mayor R Graham that Council:

- (1) receive the report which includes the attachments – Port Coogee Marina Project – Volume 1 Assessment and Recommendations, Volume 2 – Public Submissions and the Schedule of Submissions;
- (2) adopt the recommendations made in the Schedule of Submissions included in the Report on Proposed Port Coogee Marina Project – Volume 2 – Public Submissions, attached to the Agenda for both Amendment No. 3 and the Local Structure Plan;
- (3) adopt the Amendment with the following modification:-
 - add points 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 to the Eleventh Schedule – Development Areas, Development Area DA22 under the Provisions column of the Schedule as follows:-
 9. The design, construction and development within the Development Area, shall have due regard for the



principles, objectives and criteria contained in the Sustainability Strategy prepared by the developer for the Port Coogee Marina.

10. The Neighbourhood Centre shown on the Structure Plan located on Cockburn Road at the southern end of the Development Area is restricted to the following uses:-

- Fast Food Outlet (P) (subject to 11)
- Health Studio (D)
- Medical Centre (D)
- Convenience Store (A)
- Lunch Bar (P)
- Shop (P)
- Restaurant (P)

where the permissibility (P), (D) and (A) is in accordance with clause 4.3.3 of the Scheme.”

11. Fast food outlets are restricted to only those premises that do not include a vehicle drive through service.

12. No commercial fishing boats are permitted to enter or use the marina.

13. Detailed Area Plans (DAP's) prepared under clause 6.2.15 of the Scheme to guide development for a particular lot or lots within the adopted Structure Plan shall be referred to the Council for its consideration and determination.

14. Detailed Area Plans (DAP's) may be required for any particular lot or lots within the adopted Structure Plan, however, DAP's shall be prepared for the land designated Marina Village, Neighbourhood Centre and possible future local centre and for land coded R80 and higher density coding.

15. Despite the provisions of the scheme, the Council may, when considering a Detailed Area Plan (DAP's), impose development requirements including but not limited to vehicle parking greater than the standards prescribed under the Scheme, if in the opinion of the Council, it would result in a more desirable outcome for the use and development of the land the subject of the DAP's.

16. The proposed future local centre adjacent to the railway line, which is approximately 4000m² in area, is to be developed for off-street public car parking with the location, design and landscaping being to the Council's

satisfaction and the car parking area is to be maintained by the developer or landowner for this purpose, until the Council agrees that all or part of the area is no longer required and may be considered for a railway station or other alternative use.

17. Where development within the Marina Village or in areas coded R80 or higher density is to be multi-storey development, then the ground floor shall be set aside for commercial, retail or mixed business and may not be used for any other use unless the Council decides otherwise.
18. Development within the R20, R25, R40 coded residential areas is restricted to 2 storeys in height plus a loft.
19. The Marina Village is to be developed as a social and tourist focal point with the commercial uses centred around alfresco dining and entertainment, marine based retail and other complementary specialty facilities, with a minimum retail floorspace of 1500m² net lettable area, unless the Council decides otherwise.
20. The Marina Village shall include a site of not less than 3500m² for the development of an hotel, located and designed to the satisfaction of the Council.

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;

- (4) request the Department of Local Government and Regional Development proceed with the adjustment to the District Boundary to the City of Cockburn so as to incorporate the proposed Port Coogee Marina consistent with the boundary to the Urban Zone created under Amendment 1010/33 to the Metropolitan Region Scheme;
- (5) adopt with modifications, the Local Structure Plan dated October 2003, prepared by Taylor Burrell Barnett on behalf of Port Catherine Developments Pty Ltd, under Clause 6.2.9 of Town Planning Scheme No. 3 and forward the Plan to the Western Australian Planning Commission for endorsement under Clause 6.2.10 of the Scheme, subject to the Plan being modified to:-
 1. incorporate the alternative proposals contained in the revised Local Structure Plan prepared by Taylor Burrell Barnett on 6 March 2004, Job No. 90/57 to the Port Coogee Marina in relation to:-

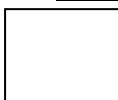


- the creation of a public beach within the marina;
 - the causeway connected residential island;
 - the additional boat pens;
 - the inclusion of additional R80 coded residential areas; and
 - the substitution of portion of the R80 coded residential areas within and adjoining the Marina Village with R160.
2. include a pedestrian/bicycle underpass under the realigned Cockburn Road to provide a convenient link between the project area and the Beeliar Regional Park and this is to be built in conjunction with the proposed traffic bridge, so that the underpass is open on one side.
- (6) advise the Western Australian Planning Commission that the Council's adoption of the modified Local Structure Plan is subject to the following negotiations:-
1. The Plan as presented not be assessed under the Liveable Neighbourhood Community Code as it has not adequately addressed the Code requirements and therefore, the Plan be treated as a "traditional" Structure Plan.
 2. The proposal be dealt with as a "development node" under Provision G(e) of Schedule One of the State Coastal Planning Policy.
 3. The planning, construction and ongoing management be undertaken in accordance with EPA Bulletin 1060.
 4. Should additional boat pens be required within the marina, then the plan be reviewed by the Commission in conjunction with the proponent, to explore the opportunity of creating a small boat harbour and public boat launching facility within the marina basin by relocating the northern groyne northwards to join the coast north of the water exchange pond at the front of the disused South Fremantle Power Station, in accordance with the suggestion contained in Section 3.2.17 of the Council Report.
 5. The State Government underwriting the project to ensure that the proposed Port Coogee Marina is completed in accordance with the adopted and endorsed Structure Plan, all planning conditions and environmental requirements in order to protect the public, the local government and the Waterways Environmental Management Program Manager against any liability

arising from the developer not completing the development as approved, or the failure of the marina to achieve the structural and environmental outcomes required under any approval or the State Project Agreement;

(7) advise the applicant and the Western Australian Planning Commission of matters to be addressed and resolved to the Council's satisfaction prior to the clearance of the first plan or diagram of survey, namely:

1. The proponent to prepare a plan for the development, revegetation and ongoing management of the Beeliar Regional Park east of the realigned Cockburn Road, in consultation with the Council's Greening Plan Review Group, where recovered groundwater will be irrigated as part of the groundwater management program and the plan is to include provision for footpaths, trails and a lookout, which take advantage of the views to the east and west of the ridgeline.
2. The proponent providing a written undertaking that the Marina Village will form an integral part of the staged development of the project and the land designated for the village will not be excised from the project area for sale to a third party as a future development site.
3. The proponent contributing towards a boat launching facility in accordance with the commitments made under the State Project Agreement for Port Coogee by upgrading and expanding the public facilities existing adjacent to the Cockburn Power Boat Club at Woodman Point unless:
 - The marina is modified in accordance with Recommendation (6) 4; or
 - The upgrading and expanding the public boat launching facilities adjacent to the Cockburn Power Boat Club facilities is not feasible, in which case the report be prepared by the developer identifying other possible options for locating public boat launching facilities on the coast within the City of Cockburn.
4. The proponent undertaking to:-
 - Acknowledge the Omeo wreck by the erection of an "interpretative plaque" appropriately located in the vicinity.
 - Demonstrate that adequate boat manoeuvring space between the private jetties and the marina boat pens



to facilitate large pleasure craft has been provided in accordance with Western Australian Planning Commission Policy DC 1.8.

- Prepare a detailed staging plan for the development.
- Erect signs as provided for under Clause 11.11 of the local scheme, to advise the public visiting and purchasers of land within the project area, of future land use and development proposals yet to be commenced or completed.
- Provide car parking provisions in support of the marina facilities in accordance with the standards contained in the local scheme, or otherwise agreed by the Council.
- Progressively implement the development of the public spaces and facilities within the Structure Plan, so that the public benefits to be derived from the project can be established for the use and enjoyment of the community as each stage of development is undertaken and completed.
- Ensure that the sales brochures that promote the development make all prospective purchasers aware of the likely scale and form of development that may potentially occur within the Marina Village and the high density coded residential areas.

- (8) advise the applicant and the Western Australian Planning Commission that the following Management Plans and Programs be prepared and completed to the satisfaction of the Commission and the Environmental Protection Authority prior to lodging an application for subdivision approval in accordance with the adopted and endorsed Local Structure Plan, namely:-

1. Remedial Works Management Plan
2. Construction Management Program
3. Waterways Environmental Management Program
4. Noise and Vibration Management Plan;

- (9) advise the applicant, the Western Australian Planning Commission and the Environmental Protection Authority that in respect to the Management Plans, the following additional matters be addressed:-

1. Remedial Works Management Program consists of:-
 - (a) Public Safety Plan

The Public Safety Plan should ensure maximum access along the beach and the pedestrian cycle trail. Where restriction of the pedestrian and cycle trail is necessary, appropriate 'detour' routes should be identified.

(b) Dust Management and Monitoring Plan

Appropriate contact people need to be identified to receive complaints from the public over construction activities, including dust management, traffic problems, health concerns and other impacts.

(c) Contaminated Stormwater Management Plan

The outline for this plan refers to 'monitoring' and 'contingency measures'. The plan needs to also address initial planning and layout of excavation, pit design and truck loading to minimise the potential for stormwater to contact the contaminated material. The plan should not only focus on stormwater run-off but also on contaminated stormwater soaking into the groundwater. Disposal options may also need to be considered.

2. Construction Management Program consisting of:-

- (a) Management procedures and a monitoring program for the protection of marine water quality, flora and fauna within the vicinity of the marina, including seagrass meadows.

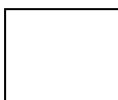
The monitoring program should include quantifiable criteria, including turbidity and where possible, monitoring should be continuous. Trigger levels should also be clearly stated that require particular management responses.

- (b) Vegetation Management Plan to adequately mitigate the loss of native vegetation and the loss of portions of Beeliar Regional Park

This will require significant consultation with CALM, City of Cockburn and the community to ensure replacement of not only vegetation, but replacement of environmental values. This will also require on-going maintenance of the rehabilitated area until the vegetation is fully established.

- (c) Contingency measures if monitoring reveals unacceptable impacts to marine flora and fauna

"Unacceptable impacts" need to be well defined through the plan. Contingency plans need to recognise the expertise that will be on-site if site



managers are responsible for determining the acceptability of impacts.

- (d) Strategies for the management of changes to coastal processes in the vicinity of the marina during the construction phase
- (e) Strategies for the management of dust, noise and vibration during construction

A complaints telephone contact should be established that will allow members of the local community to speak to on-site personnel if they have a problem with noise, dust or vibration during construction.

In addition, the Construction Management Program should include a requirement that any existing man made sea walls or revetments that are not removed as part of the development, be either removed, rehabilitated or replaced in accordance with engineering advice to ensure the public beach is safe, attractive and forms a high quality and aesthetically pleasing transition between Coogee Beach and the marina development, to the satisfaction of Council and that the developer examine the possibility of removing the existing groyne in order to expand the area of beach currently available to the public south of the marina.

- (f) The implementation of construction measures that will ensure that rocks and other material do not wash from the groynes onto the adjoining foreshore and seabed.

3. Waterways Environmental Management Program:

The Waterways Environmental Management Program be completed, by nominating a Waterways Manager.

4. Noise and Vibration Management Plan including:

Show how noise-sensitive premises can be protected from adverse noise and vibration impacts from the adjacent rail line and vehicle traffic.

The Noise and Vibration Management Plan should also address the noise from sand by-passing operations. Given the frequency of operations and proximity to



residents, the management of noise and beach access could be a potential issue.

- (10) advise the Western Australian Planning Commission that should the Local Structure Plan for Port Coogee Marina be adopted and endorsed, that it be formally recognised as the final plan for the marina for the purpose of proceeding with the review of the North Coogee Master Plan, so that detailed planning and design can be commenced for the marina with certainty;
- (11) request reports be prepared by the Planning and Development Division for the Council's consideration on the following matters which are external to but associated with, the development of the Port Coogee Marina, namely the implications of the Marina development on:
- Ocean Road, Spearwood
 - Spearwood Avenue, Spearwood
 - McTaggart Cove and Robb Road, Hamilton Hill
 - Fremantle to Rockingham Highway (Cockburn Road)
 - Beeliar Drive, Munster
 - Beeliar Regional Park, Spearwood
 - South Fremantle Power Station, Coogee
 - Fremantle to Midland Railway line.

CARRIED 7/1

CLR OLIVER REQUESTED THAT HER VOTE AGAINST THE MOTION BE RECORDED.

Explanation

The explanation in support of the alternative amendment is provided in accordance with each of the proposed changes.

- Amendment (1) to Recommendation (2)
 - Modified Point 10.
The Scheme Text should be amended to prevent petrol filling stations from establishing in the Neighbourhood Centre and allow for the development of shops and restaurants there.
 - New Point 11
Because of the location, limited size and scope of the proposed Neighbourhood Centre on the Structure Plan, it would be undesirable to allow fast food outlets to establish there which include a drive through service because they could compromise traffic circulation and safety onto the surrounding roads.



- New Point 12
The Marina should only be for recreational boating, with commercial fishing boats not being permitted because they are incompatible with the nature and purpose of the Marina.
- New Points 13 and 14
Given the significance of the Port Coogee Marina to the development of the district, it is essential that the Detailed Area Plans (DAP's) be referred to the Council for consideration and determination so that it can have due regard for economic, social and environmental factors. It is important that DAP's be required to be prepared for the more complex development sites.
- New Point 15
It is important that when the Council is considering a DAP, that it has the ability to impose greater standards for development where it believes it would be in the community's interest to do so. This is particularly relevant to parking provisions.
- New Point 16
It is essential that the development include adequate car parking for visitors to the Port Coogee Marina and for those using the facilities. One way of ensuring that this can be achieved in the short to medium term, is set aside a dedicated area of public car parking and if it is found that it is not required, then alternative uses be found for the land at that time. It would be unacceptable for such an important development not to provide sufficient car parking. It is considered that the possible future local centre adjacent to the railway line be used for this purpose.
- New Point 17
To ensure a diverse, interesting and lively Marina Village, it is imperative that where multi storey high density residential development occurs, that the ground floor is used for commercial, retail and mixed uses.
- New Point 18
It is considered that in the lower residential densities R20 to R40, a height limit should be imposed to provide certainty for residents developing in these areas.
- New Point 19
Given the range of potential uses that may be permitted within the Marina Village, it is important that the primary purpose of the village is reinforced and not substituted by other dominant non-commercial uses.
- New Point 20
For the Marina Village to be an attractive tourist destination, it is essential that the development include a hotel.



- Amendment (2) to Recommendation (5) -

The Structure Plan should be modified to reflect the most recent revised plan prepared by the proponent, which shows an increase in the number of public boat pens from 256 to 302, includes a public swimming beach and increases the residential densities around the Marina Village. This plan has been prepared in response to the public submissions and cognisant of the comments of the office of the Minister for Planning and Infrastructure. The inclusion of the swimming beach should satisfy a number of community concerns about the project, generating a significant public dividend and reflects the type of beach facility which has been hugely successful in the South Bank development in Brisbane.

The Structure Plan should be supported with modifications to include an underpass between the development and the Beeliar Regional Open Space, but the underpass needs to be in a location where it can be as open as possible to ensure maximum safety for users.

- Amendment (3) to Recommendation (6) -

Because of the likelihood that the Council requirements could be better achieved through negotiations than as a requirement, the officer's recommendation should be changed to allow for this opportunity.

- Amendment (4) to Recommendation (7)1 -

Any plan prepared for the Beeliar Regional Park should be undertaken in close consultation with the Council's Greening Plan Review Group and incorporate paths, trails and a possible lookout, to achieve a sustainable and tangible public benefit.

- Amendment (5) to Recommendation (7)3 –

The proposed Local Structure Plan does not include a public boat ramp. The Council preference is for the development to improve the public boat launching facilities adjacent to the Cockburn Power Boat Club. However, if this is not feasible, alternatives should be examined for the Council's consideration. Any future facilities are to be located within the City of Cockburn.

- Amendment (6) to Recommendation (7)4 -

- First new point

It is important the public benefits that are required to be achieved from the Port Coogee Marina be made progressively available as the project is developed, so that the community can



begin to use and enjoy some of the public spaces and facilities from the outset. This is vitally important.

- Second new point
In addition to any signs that may be erected on future sites, it is essential that the sales promotion brochures make it clear to prospective purchasers, what the future holds for the land designated for the Marina Village and the R160 and R80 sites.
- Third amended point
If the existing seawall is to be retained, then it must be upgraded to a high quality attractive structure that does not detract from the beach.
- Amendment (7) to Recommendation (9) –

Because of the degraded condition of the existing sea wall, it is imperative that this structure be either removed, rehabilitated or replaced to ensure that it is safe and attractive to beach users. Consideration should also be given to removing the existing groyne to open up the beach and make it more accessible.
- Amendment (8) to Recommendation (11) -

Reference to Coogee Beach Shop and proposed café/kiosk as a project requiring a report to Council in response to the Port Coogee proposal, should be deleted because reports have and are continuing to be prepared for Council's consideration and therefore is not a relevant inclusion.

Background

The Structure Plan was adopted by the Council on 18 March 2003 (Item 14.4) for the purpose of public advertising, by way of the following resolution:-

- “(1) *receive the report;*
- (2) *subject to the applicant agreeing in writing that Clause 6.2.8 of Town Planning Scheme No. 3 will not apply until the WAPC has granted approval to advertise Amendment No. 3 to Town Planning Scheme No. 3:-*
1. *advertise the Port Catherine (Port Coogee) Local Structure Plan dated December 2002 for public comment during the advertising of Amendment No. 3 to Town Planning Scheme No. 3 relating to Port Coogee, granted by the Western Australian Planning Commission;*



2. *require the Planning and Development Division to prepare a report on the proposed Local Structure Plan for Port Coogee and include comments and recommendations on any public and agency submissions received during the public advertising period relating to the Structure Plan, for the Council's consideration;*
 3. *advertise the Structure Plan in accordance with the provisions of Clause 6.2 of Town Planning Scheme No. 3 with the close of the public submission period to coincide with the close of the public comment period for Amendment No. 3;*
- (3) *upon acceptance by the applicant to (2) above, advise the Western Australian Planning Commission of the Council's decision accordingly."*

On 24 October 2003, the WAPC granted approval to advertise Scheme Amendment No. 3 to Town Planning Scheme No. 3, together with the associated Structure Plan.

However, between the time the Council adopted the Structure Plan for advertising in March 2003, the proponent undertook further discussions with the Office of the Hon Minister for Planning and Infrastructure, which resulted in marginal changes to the plan. The changes included a reduction in the canal lots to increase the marina capacity from 150 to 256 public boat pens and an increase to the foreshore setback to the residential allotments south of the marina. The changes are discussed on pp3 of the Local Structure Plan Report.

The modified plan was advertised for public comment, in accordance with the WAPC instructions.

Information about the background to Amendment No. 3 to Town Planning Scheme No. 3 and the Structure Plan is contained in Volume 1 – Assessment and Recommendations Report, attached to the Agenda.

In relation to the Amendment:-

- Regulation 25(fb) of the Town Planning Regulations, the Council has 42 days after the expiration of the public comment period to submit a report to the Commission on the submissions received. As the submission period closed on 24 December 2003, the Council had until 4 February 2004 to comply with the Regulations. However, an extension was requested and granted by the Commission to the 30th April 2004.
- Regulation 17(2) allows the Council, after considering the submissions on the proposed Amendment, to resolve to either



adopt the Amendment with or without modification or not proceed with the Amendment.

In relation to the Structure Plan:-

- cl. 6.2.9.1 of TPS No. 3, gives the Council 60 days to consider the submissions received. This expired on 22 February 2004. This timeframe could not be complied with because of the large number of submissions received. However, cl. 6.2.9.4 allows the local government to agree in writing with the owner for the period to be extended, otherwise the Structure Plan is deemed refused. The owner has provided written agreement to an extension, in accordance with cl. 6.2.9.4, up until 30th April 2004.
- cl. 6.2.9.2 (a) the Council must have due regard for any comments and advice provided by the Commission when considering the Structure Plan. Cl. 6.2.7.4 gives the Commission 30 days to provide its comments to the Council. The Structure Plan was referred to the Commission on 27 November 2003 and comments should have been received by the Council by 27 December 2003, but at the time of writing no response had been received.
- cl. 6.2.9.1 (a) and (b) allows the Council to adopt the proposed Structure Plan with or without modifications or refuse to adopt the plan.
- cl. 6.2.10.1 the Council has 7 days in which to advise the Commission of its decision and if appropriate request the Commission for its endorsement.

Submission

The proposal is to amend Town Planning Scheme No. 3 by zoning the area, the subject of Metropolitan Region Scheme ("MRS") Amendment 1010/33, to Development Zone and Development Area (DA22) to make the Local Scheme consistent with the MRS, as provided for under Section 35A of the Metropolitan Region Scheme Town Planning Scheme Act.

The purpose of the Amendment No. 3 is to facilitate the preparation, adoption and endorsement of a Structure Plan prior to subdivision and development.

Also, the proposal report describes the Local Structure Plan for the Port Coogee Marina, in terms of land uses, infrastructure, environmental issues and implementation.



Report

A comprehensive report on the proposed Amendment and Local Structure Plan is contained in Volume 1 – Assessment and Recommendations Report attached to the agenda.

The report assesses the proposals, makes comments and recommendations.

The report discusses the appropriateness of the amendment and examines the Local Structure Plan in terms of Liveable Neighbourhoods, Policies, Design Philosophy, Design Objectives, the Environment, the land use components, the Council's requirements and the Public Accounts Committee findings and recommendations.

A comprehensive report on the submissions is contained in Volume 2 – Public Submissions Report, attached to the Agenda.

Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas that apply are:

- *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
- *"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."*
- *"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."*
- *"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."*



The Council Policies that are relevant are:

- APD4 Public Open Space
- APD28 Public Open Space Credit Calculations
- APD30 Access Street/Road Reserve & Pavement Standards
- APD31 Detailed Area Plans
- APD32 Residential Design Codes
- APD36 Shopping Centres and Service Stations

Budget/Financial Implications

At this stage in the approval process the proponent has paid \$8,800 for the Amendment and Structure Plan applications. Advertising costs have yet to be paid.

Following a decision to finalise the MRS and prior to the finalisation of Amendment No. 3, the Council will need to seek further advice on the financial arrangements to be made to provide for the additional management and maintenance costs associated with the Waterways Environmental Management Program, should it be decided by the WAPC, and the Council agrees, that the City of Cockburn be the nominated manager.

Given that each submission had to be acknowledged, postage costs amounted to \$2,014 excluding stationery and envelopes.

In addition, a casual employee had to be engaged to process the submissions and this cost \$6,330.00.

Legal Implications

The Council is required to comply with the Act and Regulations in respect to the advertising of the Amendment and the Structure Plan.

The Council is to comply with the advertising instructions issued by the WAPC.

Should MRS Amendment 1010/33 and/or the Local Scheme Amendment No. 3 be finalised as proposed, the District Boundary to the City of Cockburn needs to be redefined to incorporate the proposed Port Coogee Marina.

Community Consultation

In February 1998, the first Cockburn Community Needs Study was conducted for the district and in response to a question relating to the proposed Port Catherine Marina (now Port Coogee) an average of 55% of all those surveyed supported the proposal, while 20% of all respondents were opposed to it. The balance of 25% was undecided.



In November 2001, the MRS Amendment 1010/33 was advertised for three and a half months. At the close of the submission period, 505 submissions were received, of which 458 (90%) supported the amendment to re-zone the Port Coogee Marina project area Urban, while 32 (7%) objected to the proposal. There were 15 (3%) submissions that were undecided or lodged comments. The MRS amendment preceded the advertising of the Local Scheme amendment.

The advertising period for the Local Scheme Amendment and the Structure Plan was required by the WAPC to be 42 days, which commenced on 12 November and terminated on 24 December 2003.

During this time, the Australian Democrats and the proponent held public forums and displays to promote an awareness of the proposal.

Notices were published in the State and local papers and Cockburn Soundings, and signs were erected on the site.

The Council also published the proposed Amendment and Structure Plan documents on its web site, www.cockburn.wa.gov.au. In addition, the proponent displayed general information about the project on www.portcoogee.com.

The documents supporting the proposal, together with displays of the Structure Plan, were erected in the Council's Administration Office and the Spearwood, Coolbellup and Success Libraries.

At the close of the public comment period, there was a total of 4030 valid submissions received, which resulted in:-

- Supporters	2032	50.4%
- Objectors	1976	49.0%
- Comments	<u>22</u>	<u>0.6%</u>
Total	<u>4030</u>	<u>100%</u>

In addition two petitions were received.

One was a copy of a petition addressed to the State Parliament by CCAC objecting to the proposal. The petition was certified by CCAC as containing 5715 signatures. The petition was noted.

The second petition with 38 signatures was submitted by 'Port Coogee – Now' in support of the proposal. The petition was noted.

A detailed report on the submissions is contained in Volume 2 - Public Submissions Report, attached to the Agenda, together with a Schedule of Submissions.



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

Nil.

AT THIS POINT THE TIME BEING 9.12PM, CLR ALLEN LEFT THE MEETING.

14.2 (MINUTE NO 2337) (OCM 16/03/2004) - TRUNCATED CORNER LOT 800, CNR RECREATION ROAD AND STRODE AVENUE, HAMILTON HILL (2212045) (KJS) (ATTACH)

RECOMMENDATION

That Council initiate boundary adjustments pursuant to road closure provisions of the Land Administration Act 1997 to facilitate an increase in area of 4 square metres to Lot 800 Recreation Road, subject to the owner of Lot 800 paying all costs and an administration fee of \$250.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

Lot 800 formerly Lot 49, on the corner of Recreation Road and Strode Avenue, Hamilton Hill was created with the less usual curved truncated corner in 1932.

Council at its meeting held on 16 December 2003, considered a similar request, but resolved not to proceed with the closure because of insufficient justification.

Submission

Giudice Surveys acting for the owners, M & T Orlando, have made a written submission to amend the truncation of Lot 800 Recreation Road, Hamilton Hill.



Report

The truncated corner being at the south-eastern corner of the Recreation Road and Strode Avenue intersection.

Truncated corners are designed to increase sight distances for vehicles as they approach road intersections. The truncated corner at Lot 800 is a curve rather than the usual straight line. This curved truncation with a radius of 10 metres achieves the same sight distance benefit as the more common straight truncation, with equal splay distances of 6 metres. The curved truncation is not as efficient in providing area to the lot. There is a gain of 4 square metres if the curved truncation is replaced with a straight truncation.

The owner of Lot 800 also owns the two adjoining lots in Recreation Road and the adjoining lot in Strode Avenue. The effect of adding 4 square metres to the proponents total land holdings, will be to increase the yield potential of the holding from 8 units to 9 units. This could be achieved by amending the internal boundaries of the lots within the land holding. The increase from a potential of 8 units to 9 units conforms with the R20 zoning. The location is within 500 metres of local shops and 300 metres of public transport.

The City of Cockburn – Local Planning Strategy offers support as follows:-

“2.1.3(a)(1)

- *maximising development near public transport routes;*
- *including a range of housing densities;*

2.1.3(c)(1)

- *promote higher density and mixed land use developments to reduce car use and promote cycling, walking and public transport.*

2.1.3(m)(1)

- *encourage the provision of a range of lots and housing types in large comprehensively planned development projects or smaller redevelopments to reflect the diverse needs of the community.*

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."*
- *"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."*



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

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

14.3 (MINUTE NO 2338) (OCM 16/03/2004) - DEDICATION OF LAND AS ROAD PURSUANT TO SECTION 56 OF THE LAND ADMINISTRATION ACT 1997 - LOTS 105 TO 110 PLAN 23825 COCKBURN ROAD (450002) (KJS) (ATTACH)

RECOMMENDATION

That Council:

- (1) request that the Minister for Planning and Infrastructure dedicate Lots 105 to 110 inclusive on Plan 23825 as road reserve pursuant to Section 56(1) of the Land Administration Act; and
- (2) indemnify the Minister for Planning and Infrastructure against any reasonable costs incurred in considering and granting this request.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0



Background

Lots 105 to 110 on Plan 23825 are owned in freehold by Main Roads WA who constructed the Cockburn Road deviation in 2000. Cockburn Road is a Primary Regional Road under the Metropolitan Region Scheme.

Submission

Main Roads WA have written to the City requesting that the land be dedicated to road.

Report

Main Roads WA have completed the roadworks to the satisfaction of the City. This section of Cockburn Road was then de-proclaimed as a Highway as of 1 July 2002. The road now needs to be dedicated as road for the City of Cockburn to have care, control and management. Currently the land is freehold land with the registered proprietor being the State of Western Australia.

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."*

Budget/Financial Implications

N/A

Legal Implications

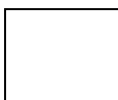
N/A

Community Consultation

N/A

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

Nil.



14.4 (MINUTE NO 2339) (OCM 16/03/2004) - PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 12 - ZONING LAND WITHIN THE IMLAH COURT AND PRINSEP ROAD AREA FROM RAILWAYS TO RESIDENTIAL, INDUSTRY, DEVELOPMENT AND MIXED BUSINESS AND REQUIRING A STRUCTURE PLAN TO BE DEVELOPED FOR THE AREA (93012) (JLU) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (2) adopt the following amendment with modifications to the Scheme Amendment Map that reflect the surveyed boundary between Lots 801 and 509 Cutler Road in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forward to the Western Australian Planning Commission:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

AMENDMENT NO. 12

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 amend the above Town Planning Scheme by:

1. Including the following in Schedule 11 – Development Areas of the Scheme:

Ref. No.	Area	Provisions
DA 22	Imlah Court and Prinsep Road, Jandakot	<ol style="list-style-type: none"> 1. An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development. 2. To provide Residential development along the Imlah Court frontage and Mixed Business development with co-ordinated access from Prinsep Road, in accordance with an approved Structure Plan.



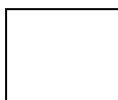
2. Amending the Scheme Maps to include Lots 19, 21, 22, 23, 24, 69 and Reserve 43679 Imlah Court and Lots 18 and 303 Prinsep Road within Development Area – DA 22.
 3. Amending the Scheme Map to rezone the following:
 - a) Portion of Lots 316 – 331 The Lakes Boulevard, Jandakot from Railways Reserve to Residential R40 Zone;
 - b) Portion of Reserve 43679 from Railways Reserve to Residential R20 Zone;
 - c) Portion of Lot 24 Imlah Court from Railways Reserve to Residential R20 Zone and Mixed Business Zone;
 - d) Portion of Lots 19, 21, 22, 23 and 69 Imlah Court and Portion Lot 303 Prinsep Road from Railways Reserve to Mixed Business Zone;
 - e) Portion Lot 801 Prinsep Road from Railways Reserve to Industry Zone and Development Zone;
 - f) Portion Lot 801 Prinsep Road from Development Zone (DA 20) to Industry Zone;
 - g) Amend the boundary of DA 20 to include portion of Lot 801 to correspond with the modified boundary of the Industry Zone; and
 - h) Portion of Prinsep Road from Local Road to Industry Zone.
- (3) advise those who made submissions and the owners of the affected properties, of Council’s decision accordingly.

COUNCIL DECISION
 MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

ZONING:	MRS:	Railway (Currently being rezoned to Urban)
	DZS:	Railway, Residential R20/R40 and Mixed Business
LAND USE:	A range of uses	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	



At its meeting in August 2002 Council resolved to initiate Town Planning Scheme Amendment No. 12 to rezone land in the Imlah Court – Prinsep Road area from ‘Railways’ Reserve to ‘Residential’, ‘Mixed Business’, ‘Development’ and ‘Industry’ Zones in keeping with an amendment to the Metropolitan Region Scheme (MRS). The Amendment also introduces a requirement for a Structure Plan to be developed for the Imlah Court – Prinsep Road area to ensure co-ordinated access to the ‘Mixed Business’ Zone from Prinsep Road.

MRS Amendment No. 1032/33 will facilitate the final land requirements for the South West Metropolitan Transit system including land for the passenger rail between Perth and Mandurah. The MRS Amendment proposes to rezone the previously defined railway route on the eastern side of the Kwinana Freeway to ‘Urban’, ‘Urban Deferred’ and ‘Industrial’ as this land is no longer required given that the railway has been relocated to the median of the Freeway. The MRS Amendment has progressed through the environmental assessment process and is awaiting a recommendation to be presented to the WAPC before proceeding to Parliament.

Report

The Amendment was referred to the Environmental Protection Authority who provided the following advice:

1. There is a Wetland - Multiple Use in the southern portion of the Amendment area. The Amendment area is also within a Category B Groundwater Environmental Management Area and is just outside the Jandakot Mound Priority 3 Source Protection Area. It is recommended that prior to development, the wetland management category is checked with the DoE and any subsequent development adopt appropriate water management measures;
2. Prior to development any locally significant remnant bushland should be assessed and protected; and
3. Prior to development the potential for emissions from individual ‘Mixed Business’ and ‘Industrial’ uses is to be established and appropriate measure to be made to prevent unacceptable impacts on residential uses and the environment.

The above advice is noted and will be addressed as conditions of development and subdivision approval in the area.

As the proposed Amendment was not consistent with the current MRS, consent to advertise was required from the Western Australian Planning Commission (WAPC). Prior to advertising the WAPC requested that DA 20 boundary be extended to include the portion of road that connects with the proposed North Lake Road extension. See agenda attachments for the Scheme Amendment Map initiated by Council and the modified Map as requested by WAPC. The reason for



this modification is to reflect the Solomon Road Structure Plan and to ensure the road connection is made between North Lake Road extension and Prinsep Road.

Submissions

The Amendment was advertised for a period of 42 days from the 17 December 2003 to the 28 January 2004 in accordance with requirements of the WAPC. Three submissions raising no objections to the Amendment were received during the advertising period. A submission was received from the Water Corporation outside the advertising period. A Schedule of Submissions is included in the Agenda Attachments.

A submission was received from Taylor Burrell Barnett acting on behalf of LandCorp who own Lot 801 Prinsep Road. The Amendment proposes to rezone portion of Lot 801 to 'Industry' facilitating the expansion of the Fremantle Steel premises on Lot 509 Cutler Road. A subdivision has been approved by the WAPC for a boundary adjustment between Lots 801 and 509. A survey of the two properties was recently conducted and a plan lodged with Department of Land Information to effect the subdivision approval. There appears to be a discrepancy between the survey plan and the Amendment Map (see Agenda Attachments for plan). Given the modification is minor it is recommended that the Amendment Map be altered to reflect the survey plan.

Conclusion

Amendment No. 12 reflects the MRS Amendment currently being progressed through the WAPC and will ensure consistent zoning and development types in the Imlah Court – Prinsep area. The Amendment also requires a Structure Plan to be developed for the Imlah Court – Prinsep Road area which will ensure co-ordinated access to the 'Mixed Business' Zone from Prinsep Road. Given that no submissions were received objecting to the Amendment and the concerns raised by Taylor Burrell Barnett have been addressed it is recommended that the Amendment be adopted and forward to the WAPC for finalisation.

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 development will enhance the levels of amenity currently enjoyed by the community."*



2. Conserving and Improving Your 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."*

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

The Amendment was advertised for 42 days with three submissions being received. All affected land owners and relevant agencies were advised of the Amendment.

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

Nil.

14.5 (MINUTE NO 2340) (OCM 16/03/2004) - COMMERCIAL VEHICLE PARKING - LOT 237; 7 JOYCE AVENUE, HAMILTON HILL - OWNER: J M HARP - APPLICANT: G & J M HARP (2204133) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant approval to the parking of one commercial vehicle on Lot 237 (No. 7) Joyce Avenue, Hamilton Hill, 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 development.
3. Only one commercial vehicle being parked on the property.



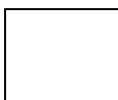
4. All liquid waste (that includes washing from the vehicle) must be disposed of on-site, or disposed of properly, so as not to create a nuisance or pollution. At no time are washings to enter the public street.
5. Where a noise complaint is substantiated in accordance with the relevant Regulations made pursuant to the Environmental Protection Act 1986, the Council may restrict the hours of operation of the Commercial Vehicle or revoke its approval to park a Commercial Vehicle on the property.
6. Any restrictions imposed on the hours of operation of a commercial vehicle shall not limit further application of the relevant Regulations made pursuant to the Environmental Protection Act 1986.

Special Conditions

7. This approval is personal to the applicant only and is not transferable to another person and does not run with the land.
8. The Commercial Vehicle shall not be parked on the verge or the street for more than 4 consecutive hours.
9. The commercial vehicle shall not be started or returned for parking on or adjacent to the property between the hours of 9pm to 7am and not at all on Sundays or Public Holidays, unless otherwise approved in writing by the Council.
10. The applicant is to maintain at his own cost, a 4.2 m wide sealed crossover extending from the lot boundary to the Joyce Road road carriageway, to the satisfaction of the Council.
11. The use is not to adversely affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) due to the emission of light, noise, vibration, dust, grit, oil liquid wastes or waste products.
12. The commercial vehicle shall be parked in line or behind the building line of the existing residence and parallel to the side boundary to the satisfaction of Council.

Footnotes

- (a) The applicant is advised that this approval is specific to



“The truck leave[s] at 7am every morning and is home by 5 O’clock in the evening. Very occasionally will work Saturday morning... [I] will then have the truck [out] from 7am till 12 noon”.

A plan showing the proposed parking area and photos of the commercial vehicle are contained in the Agenda Attachments.

Report

The application has been referred to Council for determination due to one objection being received.

Scheme Requirements

The application seeking to park a commercial vehicle on the subject property complies with the requirements stipulated under Clause 5.8.4 (b) of the City’s Town Planning Scheme No. 3.

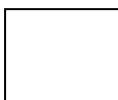
Amenity

It is considered that the proposed parking of one commercial vehicle on the subject property will not have a significant impact on the amenity of the area given that the applicant has specified that the vehicle will only be operated between 7am and 5pm on weekdays and will be parked in line with the existing residence. Further, the Council may impose conditions restricting the use of the vehicle in order to protect the residential amenity of the area.

Community Consultation

In accordance with Clause 9.4 of the Scheme, the application has been advertised for public comment. In addition, the applicant supplied six statements of no objection to the proposal from surrounding residents. At the conclusion of the advertising period, one letter of objection was received. The following table is a summary of the issues raised in the submission:

Submitter	Objection/ Support/ Neutral	Issues
A. Martins 51 Winterfold Road Hamilton Hill 6163	Objection	The presence of the truck and associated commercial activities will devalue the residential property of the surrounding area and compromise the safety and serenity expected from a residential area.



Discussion

The concerns raised in the submission are addressed below:

The comment that the activities associated with the commercial vehicle parking will devalue the residential property values is unsubstantiated. It should also be noted that the vehicle is proposed to be parked on the opposite side of the existing residence to where the objector lives. The issue of impact on property values is not a matter of planning concern.

The concern that the activities associated with the commercial vehicle parking will compromise the safety and serenity expected from a residential area can be addressed through appropriately conditioning the planning approval to control the times when the vehicle can be used. An additional condition allowing the approval to be revoked if a noise complaint is substantiated is also recommended. It is considered that the commercial vehicle parking will not have a direct impact on the safety of residents living in the area.

Conclusion

It is recommended that the application for the parking of one commercial vehicle on the property be conditionally approved for the reasons outlined in the report.

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."*

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Application was referred to surrounding landowners for comment, in accordance with Council policy. In addition, the applicant supplied 6 statements of no objection to the proposal from surrounding residents.



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

Nil.

14.6 (MINUTE NO 2341) (OCM 16/03/2004) - DEMOLITION NOTICE TO OWNERS - ANI BRADKEN BUILDING - LOT 1815 ISLAND STREET, HAMILTON HILL - OWNER: SOUTH BEACH JOINT VENTURE (2201571) (JW/MW) (ATTACH)

RECOMMENDATION

That Council:

- (1) not issue to the Owners of Lot 1815 Island Street, South Fremantle a Section 408(1)(c) Notice under the Local Government (Miscellaneous Provisions) Act 1960 to remove the dilapidated building;
- (2) advise the owners that an application to demolish the building on Lot 1815 Island Street, is to be lodged with the City before the end of July 2004;
- (3) issue a Section 408(1)(c) Notice under the Local Government (Miscellaneous Provisions) Act 1960, to the owners of Lot 1815 Island Street, South Fremantle, to remove the dilapidated building in the event that the owners do not lodge an application to demolish the building by the end of July 2004. However, Council reserves the right to issue a Notice at any time should the Council deem this to be necessary; and
- (4) advise the South Fremantle/Hamilton Hill Residents' Association and Carles Solicitors of the Council's decision accordingly.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

A Demolition Licence was issued to Brajkovich Demolition on the 20th May 2003 for the demolition of the burnt out office block and the dilapidated workshop. The office block has been subsequently removed. The Licence is due to expire on the 20th May 2004.



The City's Building Surveyors carried out a site inspection in February 2004 to assess the condition of the workshop building. The building was considered to be dilapidated. Photos taken at the site visit are included as attachments to the Agenda. The building is not considered to be dangerous.

Submission

Letter received from the South Fremantle/Hamilton Hill Residents Association (SF/HHRA) dated 9 February 2004.

Letter received from Carles Solicitors on behalf of the SF/HHRA dated 2 February 2004.

A further Letter from Carles Solicitors dated 16 February 2004.

Letter from South Beach Joint Venture as the Developers dated 20 February 2004.

All of these letters have been included as attachments to the Agenda.

Report

Concern has been raised by the residents of the South Fremantle area that the ANI Bradken building is in a dilapidated condition and they consider it a risk to public health and safety.

The Building (approximately 9800m²) is situated at Lot 1815 Island Street, Hamilton Hill and directly borders Fremantle City Council with its entrance being in South Fremantle. The building is a steel framed structure with metal clad walls and asbestos clad roof. It has been built on a site that is allegedly contaminated with heavy metals.

The building was used as a foundry, which ceased operation a number of years ago, and the building has fallen into disrepair. The soil is alleged to be contaminated and is likely to require remediation as part of the redevelopment for residential use.

The Developer has submitted Detailed Site Investigations and a remediation plan to the Dept. of Planning and Infrastructure (DPI). These documents will be referred on to the Dept. of Environment and the Dept. of Health for evaluation.

Following discussions between the Council's Principal Environmental Health Officer (PEHO) and Land & Waters Quality Management Branch of the Dept. of Environment, it appears that the demolition of the building down to the ground slab will not interfere with the site contamination and remediation works, should the building be



demolished before the results of the current environmental site investigations are known.

Concerns by nearby residents have been raised publicly that security to the site is minimal and access by the public is easily achieved.

A letter has been received from the developers stating that the site is fully fenced and has both gates locked and is patrolled on a regular basis.

The developer has also stated that the preferred time for demolition would be September 2004 as the winter rains would greatly aid in containing asbestos fibres as well as keeping the dust from the site being blown across to local residences.

There are three options open to Council, to either:-

- (1) issue a Notice to remove the building in accordance with Section 408 of the Local Government (Miscellaneous Provisions) Act 1960.
- (2) wait until the end of September 2004 to see if the developer removes the building as advised.
- (3) require the owner to apply for a demolition licence by a given time and if this does not occur, then the Council could proceed to issue a Notice. The Council may issue a Notice at any time, in any event.

It is recommended that Council proceed in accordance with option **3** and issue a Notice to demolish the building, in the event that the owner does not apply for demolition licence by a given date.

This approval is based on the fact that the City's Building Service does not believe the building is dangerous and that the Council has the right to issue a Notice to demolish the building at any time, should this be considered necessary.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*



Budget/Financial Implications

In the event that the owners appeal the Notice, Council will incur costs in retaining the services of referees to participate in the mediation process

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

- 14.7 **(MINUTE NO 2342) (OCM 16/03/2004) - EXTRACTIVE INDUSTRY - CONTINUATION OF SAND EXTRACTION - LOT 130; 367 JANDAKOT ROAD, BANJUP - OWNER: VINCENT HOLDINGS PTY LTD - APPLICANT: BUSHBEACH HOLDINGS PTY LTD T/A NLG SAND SUPPLIES (5513178) (MD) ATTACH)**

RECOMMENDATION

That Council:

- (1) advise the applicant that as previous conditions number 8, 11, 15 of the planning approval issued on 23 November 1998 have not been complied with the Council is not prepared to grant a renewal of approval to an extractive industry (sand) on Lot 130; 367 Jandakot Road, Banjup; and
- (2) reconsider the renewal of the application following a response from the applicant in relation to the Council's decision or the applicant demonstrating that the owner of the land has complied with the outstanding conditions of approval referred in (1) above.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0



Background

ZONING:	MRS:	Rural
	TPS3:	Resource
LAND USE:	Extractive Industry (sand)	
LOT SIZE:	41.2779 ha	
AREA:	41 ha	
USE CLASS:	Extractive Industry (SPP 2.3 "AA")	

Council at its Meeting held 14 August 1984 approved an application for an Extractive Industry (sand) on the subject property for a period of two years.

Council at its Meeting held 17 November 1998 approved an application for renewal of an Extractive Industry (sand) on the subject property for a period of 5 years. The approval subsequently expired on the 23 November 2003.

A copy of the approval is in the attachments.

Submission

The applicant is seeking renewal of approval for an Extractive Industry (sand) for a further 10 year period.

A copy of the development plan and summary of the proposal are in the attachments.

Report

Scheme Requirements

The subject land is zoned 'Resource' under the City's Town Planning Scheme No.3 ('the Scheme'). The Scheme refers to Statement of Planning Policy No. 2.3 – Jandakot Groundwater Protection Policy in order to assess the suitability of uses within this part of the 'Resource' zone.

Statement of Planning Policy No. 2.3 – Jandakot Groundwater Protection Policy (SPP No. 2.3)

The subject land is located within the Jandakot Groundwater Protection area. The objective of SPP No. 2.3 is to ensure that development over the Jandakot Groundwater Protection area is compatible with the long-term use of the groundwater for human consumption.

An Extractive Industry is a restricted land use under SPP No. 2.3. The local government may, at its discretion, but after having due regard for the advice from the Department of Environment (formerly Water and



Rivers Commission), permit the use. The application has been referred to the Department of Environment in accordance with the requirements of this policy. The Department has no objections to approval of the proposed application subject to the following comments summarised below:

- Activities such as sand extraction, access roads, buildings etc, shall be located outside the 50m buffer of the Resource Enhancement wetland.
- There shall be a 2m undisturbed profile between the likely maximum water table and the proposed surface level at all times.
- Rehabilitation (including screening, parkland and vegetated areas) shall use local endemic flora species (representative of the area). Cluster plantings of trees, shrubs and groundcovers within pasture areas is encouraged for the protection and maintenance of the water quality for the Jandakot Mound.

A copy of the Department's comments is in the attachments.

Statement of Planning Policy No. 2.4 - Basic Raw Materials (SPP No. 2.4)

The subject land is identified within Statement of Planning Policy No. 2.4 – Basic Raw Materials as a priority resource area for sand extraction. The policy states that priority resource locations are of regional significance, which should be recognised for future resource extraction and not be constrained by incompatible uses or development.

Compliance with Conditions of Previous Excavation Approval

An assessment of excavation compliance with the previous planning approval is an important consideration since the applicant has requested a 10 year renewal of approval.

A table outlining compliance with the previous conditions of the planning approval dated 23 November 1998 is shown below.

Key

- F - Failed to comply
 P - Partially complied
 C - Complied
 N/A - Not applicable

Condition No.	Compliance	Relating to
1	N/A	Compliance with relevant laws
2	P	Development being carried out in accordance with commitments
3	C	Operating hours for excavation

4	C	Stormwater being contained on-site
5	F	Annual report being submitted
6	C	Safety fencing and warning signs
7	C	No burning of stockpiled vegetation on-site
8	F	No disturbance of the retained vegetation
9	N/A	5 year approval
10	C	Minimum excavation not less than 30 metres ADH
11	P	No stockpiling of rubble. Existing to be removed
12	C	Rehabilitation bond being held by Council
13	C	Legal agreement allowing the City to effect rehabilitation of the land
14	C	Bank guarantee or bond of \$20 000
15	F	Maintenance of vegetation buffers to boundaries
16	C	Species list for annual planting program
17	C	Staging plan for topsoil transfer

In regards to Condition 2, on-site it appeared that the proponent has failed to comply with commitments to rehabilitate previous excavated land to the agreed standard of 200 stems/ha to parkland pasture. Rehabilitation of the site prior to the proponent leaving the site is a significant issue. The proponent should demonstrate compliance with the commitment to rehabilitate previously excavated areas, as a pre-requisite to renewing the approval to excavate.

With respect to Condition 5, the applicant has failed to supply Council with annual reports on the progress of excavation and rehabilitation of the site.

With respect to Condition 8 and 15, the proponent has encroached within the required 20 metre buffer to the north-eastern boundary abutting the abutting land reserved for Parks and Recreation (Jandakot Botanical Garden). While the excavation did not encroach within the buffer the vegetation within the buffer had been cleared to allow for battering of the excavation slopes. The clearing encroaches to within approximately 12 metres of the boundary at one point. Condition 15 specifically states that existing vegetation within the buffer shall be retained. (Refer aerial photograph with the attachments).

With respect to Condition 11, a small amount of stockpiled rubble was noticed on site at the time of the site inspection undertaken by Council officers on the 25th February 2004.

Site Inspection

A site inspection carried out by Council officers on the 25 February 2004 revealed the following:



Previous rehabilitated areas to parkland pasture appeared to be unsuccessful in that there was a low success rate and the areas were infested with weeds.

Clause 8.3.2 of TPS 3 states that *“Where planning approval has been granted subject to conditions, and one or more of the conditions have not been complied with to the satisfaction of the local government, the local government may refuse to issue an approval for the further use or development of the land to which the conditions of a previous approval are outstanding”*.

Rather than exercising Clause 8.3.2 of TPS 3, it is recommended that Council defer making a decision on the application until the applicant has addressed outstanding conditions on the current approval.

Excavation and Environmental Management Plan

The Excavation and Environmental Management Plan is deficient in information confirming the monitoring and progress of the implementation of the rehabilitation works. The report states that areas excavated prior to 1998 will be rehabilitated to parkland pasture with a planting density of 200 plants per hectare.

The applicant has agreed to rehabilitate areas excavated after 1998 at 4.6 plants per m².

The details provided in the Excavation and Environmental Management Plan are deficient and it is recommended that the applicant be made to submit the following:

- A Rehabilitation Plan for areas excavated prior to 1998. This plan shall detail rehabilitation works already undertaken and shall include the success rate of the planting. If the report finds that the rehabilitation works are deficient to what was previously agreed to for the area, then the proponent shall be made to revegetate the area to a satisfactory standard.
- A Rehabilitation Plan for areas excavated after 1998 and future excavation areas to the satisfaction of Council. The plan shall detail works to be undertaken and shall include monitoring of the progress of the revegetation.

If Council agrees with the recommendation this issue will be addressed at the time.

Rehabilitation Bond

Council, as a condition of its approval dated 23 November 1998 required a bond of \$74,000 to be lodged with the City for the purposes of rehabilitation of the land. The condition was the subject of an appeal



in which the appeal was upheld and the bond amount was reduced to \$20,000. The decision was made on the basis that the original figure of \$74,000 was required to rehabilitate the whole site, including areas that had previously been rehabilitated. The sum was therefore reduced to a figure commensurate with an amount required to rehabilitate an area that is cleared for excavation at any one time.

The bond amount be reviewed when reconsidering the renewal of the application with the applicant providing Council with a detailed report on the progress of previously rehabilitated areas and further details on proposed future rehabilitation works. The report would include calculations as to the total costs required to rehabilitate past areas to previous agreed standards and costs for the rehabilitation of current and future excavation areas, to the satisfaction of the Council. It is recommended that the bond amount be altered to reflect these calculations.

This issue be addressed at the time that the Council reconsiders the renewal application.

Community Consultation

In accordance with Clause 9.4 of the Scheme, the application has been advertised to nearby owners that are likely to be affected by the proposal. At the conclusion of the advertising period, 9 letters of objection and 3 letters of no objection were received.

The main issues raised in the submissions are outlined below:

- Generation of dust;
- Generation of noise;
- Extractive industry should be closed and the land subdivided into rural living lots;
- Objection to the extractive industry being approved for a 10 year period.

These concerns can be addressed by way of conditions of approval.

A copy of the Schedule of Submissions and officer's comments are in the attachments.

Conclusion

Given that the proponent has failed to comply with a number of important conditions contained on the previous approval, it is recommended that Council write to the applicant seeking compliance with conditions of previous approval prior to reconsidering a renewal of approval.



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 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."*

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Application was referred to surrounding landowners for comment, in accordance with Council policy.

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

Nil.

14.8 **(MINUTE NO 2343)** (OCM 16/03/2004) - PROPOSED COOGEE CAFE/KIOSK DEVELOPMENT ON RESERVE 46664 POWELL ROAD, COOGEE (3319158) (JW) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) support the proposed Coogee Beach Café/Kiosk development on Reserve 46664 Powell Road, Coogee as advertised;
- (3) adopt the Schedule of Submissions;



- (4) forward a copy of the Agenda report and Schedule of Submissions to the Western Australian Planning Commission for endorsement;
- (5) request the Western Australian Planning Commission to issue an Approval to Commence Development in accordance with the application for the proposed Coogee Café/Kiosk submitted to the Commission on 9 July 2003, and
- (6) advise those persons who made a submission of Council's decision.

COUNCIL DECISION

MOVED Cllr I Whitfield SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

An application for Approval to Commence Development for the proposed Coogee Beach Café/Kiosk was submitted by the City to the Western Australian Planning Commission on 9 July 2003 for its determination.

Submission

By letter dated 31 October 2003 the Commission advised that the Coogee Beach Café/Kiosk proposal should be advertised and comment sought from relevant stakeholders as required by section 5.1 of the Commissions Statement of Planning Policy No. 2.6 State Coastal Planning Policy which provides the following;

Public Interest: “ (1) Ensure that adequate opportunity is provided to enable the community to participate in coastal planning and management.”

The Commission advised that the application for Approval to Commence Development would be deferred pending the receipt of further information and additional consultation with relevant stakeholders regarding the proposal.

Report

Following discussion with officers from the Department for Planning and Infrastructure, the report submitted to the Western Australian



Planning Commission in support of the application for Approval to Commence Development was modified to include details of previous public consultation on the Coogee Beach Development Plan which supported the development of a Café/Kiosk in this location. The modified report was used as the basis of the public consultation.

The added detail on public consultation on the Coogee Beach Development Plan was as follows;

- February 1995 – O'Brien Planning Consultants were appointed to prepare the Coogee Beach Development Plan which included the investigation of a restaurant, café and change room facility on the existing shop site.
- August 1995 – Advertisements in the local paper calling for community input into the Development Plan being prepared.
- September 1995 – Formation of Community Liaison Committee;
- November 1995 – Public meeting held to present main points of the Development Plan which included redevelopment of the existing shop with a double story building, restaurant above, shop, model railway display and public toilets below;
- February 1996 – Public consultation on the Development Plan including a display at Coogee Beach on Saturday 24 February;
- May 1996 – Council adopted the Development Plan which recommended a café/kiosk be developed at Coogee instead of a redeveloped shop as had been proposed by the tenants of the current facility.

Advertising of the proposal for public comment was undertaken in accordance with procedures set out in Section 9.4.3 of the Town Planning Scheme No.3. A sign was erected on the southern side of the beach access path located within Reserve 46664. A local newspaper circulating in the locality carried advertisements of the proposal.

The advertising of the proposal concluded on 20 February 2004. A total of 15 submissions were received from the public with 14 in support. All the submissions have been appropriately covered and responded to in the Schedule of Submissions. No major issues have been raised which warrant further discussion in this report.

The Schedule of Submissions and the recommended responses to the Western Australian Planning Commission is included in the Agenda attachments.



It is recommended that Council resolve to support the proposed Coogee Beach Café/Kiosk development on Reserve 46664 Powell Road Coogee and advise the Western Australian Planning Commission of its decision accordingly.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
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 ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. 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."*
5. Maintaining Your Community Facilities
 - *"To construct and maintain community buildings which are owned or managed by the Council."*

Budget/Financial Implications

N/A

Legal Implications

N/A



Community Consultation

Community consultation has been undertaken and included an advertisement in the local newspaper and a sign erected on site.

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

Nil.

14.9 **(MINUTE NO 2344) (OCM 16/03/2004) - PROPOSED SUBDIVISION - LOTS 1 AND 2 JOHNSTON ROAD, JANDAKOT - OWNER: SOILS AINT SOILS PTY LTD - APPLICANT: PRESTIGE DEVELOPMENTS (121712) (MR) (ATTACH)**

RECOMMENDATION

That Council:

- (1) advise the Western Australian Planning Commission that it supports the subdivision of Lot 1 & 2 Johnston Road and Reserve 33290, Jandakot into 24 lots subject to the following conditions:

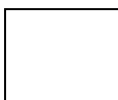
Standard Conditions

1. 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.
2. Street corners within the subdivision being truncated to the standard truncation of 14 metres.
3. Before any works commence on-site, the subdivider shall prepare a 'Soil Contamination Assessment' of the site and any contaminants shall be removed to the satisfaction of the Western Australian Planning Commission.
4. The subdivider shall prepare and implement to the satisfaction of the Western Australian Planning Commission a program for rehabilitation of Lot 1 & 2 Johnston Road and Reserve 33290 (including the removal of any uncontrolled fill on-site and the securing of a water supply for any reticulation).
5. The applicant providing a geotechnical report certifying that the land within the proposed building envelopes and road reserves is physically capable of development, to



the satisfaction of the Western Australian Planning Commission.

6. The applicant providing a geotechnical report certifying that any filling or backfilling has been adequately compacted, to the satisfaction of the Western Australian Planning Commission.
7. Arrangements being made to the satisfaction of the Western Australian Planning Commission for the rehabilitation works and revegetation required by this approval to be maintained:
 - (a) by the subdivider for a period of at least three (3) years after the endorsement of Diagram of Survey for the proposed lots by the subdivider.
 - (b) by future owners for the proposed lots for a further period of at least two (2) years after expiry of the period set out in (a) above.
8. The subdivider lodging a performance bond with the Local Government based on the estimated cost of completing the rehabilitation works, maintenance, plant replacement and administration.
9. The subdivider shall prepare a plan of the location of building envelopes on each lot and make arrangements to establish appropriate mechanisms to require all buildings on each lot to be located within such building envelopes, to the satisfaction of the Western Australian Planning Commission.
10. Measures being taken to the satisfaction of the Western Australian Planning Commission to ensure identification and protection of any vegetation on the site located in the south-western quadrant of the site prior to commencement of site works.
11. The subdivider shall prepare and implement a revegetation plan for the land, which uses species that are endemic to the locality and consistent with adjoining community vegetation types and not species known to be invasive or environmentally damaging and maintaining such for a period of three (3) years to the satisfaction of the Western Australian Planning Commission.
12. The transfer free of cost of transformer and high voltage switchgear sites to the Western Power Corporation, with the locations of the sites being to the satisfaction of the

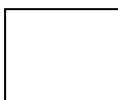


Western Australian Planning Commission on the advice of the Local Government and Western Power Corporation.

13. The land being filled and/or drained at the subdivider's cost to the satisfaction of the Western Australian Planning Commission.
14. Before any site works commence, the subdivider shall provide information relating to the extent of earthworks and final contours for the land, to the satisfaction of the Western Australian Planning Commission.
15. Notification in the form of a memorial to be placed on the Certificate of Titles of all Resource Lots advising of:-
 - (a) the existence of dog kennels on the adjacent land and advising that the lots may be affected by noise from these kennels;
 - (b) the existence of a small bore pistol club on the adjacent reserve and advising that the lots may be affected by noise from this club activity;
 - (c) Jandakot Airport on the adjacent land and advising that lots are affected by a high frequency of aircraft landing and taking-off where the lots are affected by noise from these operations.
 - (d) All house design and construction within the 25-20 ANEF must be designed and constructed to comply with AS 2021 –2000 Acoustics Aircraft Noise Intrusion – Building Siting and Construction. It is recommended that house design and construction where situated between 25-20 ANEF comply with AS 2021 –2000 as if the land was within the 25-20 ANEF.
 - (e) Soil blending operation on Lot 186 Acourt Road, Jandakot and that the lots may be affected by noise and odour from these operations.
 - (f) The keeping of livestock including horses is strictly not permitted on any lots.
 - (g) Alternative Treatment Unit effluent disposal systems are required for development on all lots.
16. Arrangements being made to the satisfaction of the Western Australian Planning Commission to ensure

prospective purchasers of the proposed lots are made aware of:-

- (a) the requirements for rehabilitation and revegetation required by this approval.
 - (b) The building envelope plan.
 - (c) Those provisions of the Local Government's Town Planning Scheme, which relate to the use and management of the land.
17. Arrangements being made to the satisfaction of the Western Australian Planning Commission for the provision of long term on-going fire protection measures including the preparation of a Fire Management Plan and the provision of a water supply, strategic firebreaks, alternative fire breaks, access, gates, locks, easements and fire hydrants or alternative water supply.
 18. No lot being less than a minimum of 2.0ha in area.
 19. Lukin Swamp and its associated buffer being shown as a "Conservation Reserve" and vested in the Crown under Section 20A of the Town Planning and Development Act, such land is to be ceded free of cost and without any payment of compensation by the Crown to the satisfaction of the Western Australian Planning Commission.
 20. Cul-de-sac head treatment being to the satisfaction of the Western Australian Planning Commission.
 21. The minimum road reserve width of 20.0 metres applying.
 22. The battleaxe access leg(s) being constructed and drained at the subdivider's cost to the satisfaction of the Western Australian Planning Commission.
 23. The proposed wildlife corridor and firebreak on the plan submitted by the applicant being shown on the Diagram or Plan of Survey as a "Reserve for Conservation" and vested in the Crown under section 20A of the Town Planning and Development Act, such land to be ceded free of cost and without any payment of compensation by the Crown to the satisfaction of the Western Australian Planning Commission.
 24. The subdivider shall prepare and implement a Wetland Conservation and Management Plan for Lukin Swamp and shall include weed control, fencing, gates and locks, fire control and rehabilitation, to the satisfaction of the



Western Australian Planning Commission.

25. Fences and gates being provided to the proposed wildlife corridor to the satisfaction of the Western Australian Planning Commission in consultation with Jandakot Airport Holdings Pty Ltd.

Footnotes

1. In relation to Condition 8 proportional amounts of the bond are deductible annually upon satisfactory performance of measures outlined in the approved Rehabilitation Plan. A proportion of the bond no less than \$20,000, is to be withheld to ensure purchasers of new lots comply with the requirements of the Rehabilitation Plan until the expiry of the 5 year term.
2. In relation to Condition 9, building envelopes shall be located on land that has the best capability for construction of dwellings and on-site effluent disposal and provides the greatest possible separation to the Jandakot Airport and to the kennel area to the north.
3. The City recommends that the lot boundaries be fenced as part of subdivisional works.

(2) notify the applicant accordingly.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

ZONING:	MRS:	Rural – Water Protection
	TPS3	Resource
LAND USE:	Vacant	
LOT SIZE:	Reserve 33290 = 12.69ha, Lot = 1 32.42ha & Lot 2 = 32.42ha	

The subject land was previously used by Boral for sand mining in the 1970's and 80's. The rehabilitation requirements of the excavation were limited to seeding for pasture. The subject land adjoins the Jandakot Airport, a soil blending fertiliser operation to the east



Jandakot Botanical Park to the south and a small bore pistol club and a kennel zone in the City of Canning.

The subdivision application initially proposed 30 (2ha) rural residential size lots. The applicant prepared a detailed report supported by plans and an environmental assessment of the subject land in support of the subdivision application. The report examines the main issues affecting the subject land and provides recommendations on how to mitigate environmental issues. The City recommended to the WAPC that the subdivision application be deferred pending receipt of additional supportive information and an amended plan. This information was received on 27 November 2003 from ATA Environmental Consultants acting on behalf of the owners. The lot yield has been reduced to 24 (2ha plus) lots in response to the City's concerns.

City Officers met with the Director of Prestige Developments who explained the various changes to the plan to address the City's concerns.

Council at its Ordinary Meeting on 20 January 2004 considered the proposed subdivision and resolved as follows:-

(1) *"refer the proposed subdivision to Jandakot Airport Holdings Pty Ltd and request advice on the following matters prior to forwarding the application with the Council recommendations to the Western Australian Planning Commission:*

1. *The potential impact of noise on the proposed subdivision from the operation of the taxiway and run-up area.*
2. *Should an adverse impact be likely the specific measures that could be implemented to ameliorate noise generated from the taxiway and run-up areas.*

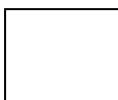
(2) *consider the response from Jandakot Airport Holdings Pty Ltd at a future Council Meeting, prior to forwarding the Council's recommendation to the Western Australian Planning Commission;*

(3) *advise the Western Australian Planning Commission of the Council decision and request an extension of time to provide its recommendations on the proposed subdivision.*

(4) *notify the applicant accordingly."*

Submission

The applicant seeks Council approval to subdivide the land into 24 Special Rural sized lots. The number of lots was reduced from 30 to 24 to ensure that all building envelopes were located outside of the 25 + ANEF (Aircraft Noise Exposure Forecast – for the Jandakot Airport). The subdivision design is now compliant in relation to AS 2021 –2000



Acoustics Aircraft Noise Intrusion – Land Use Compatibility Chart. Other issues were addressed including the proximity to the soil blending operation, Lukin Swamp, Water Corporation Bores, land capability, remnant vegetation, keeping of animals and bushfire management. A copy of the applicant's additional information is included in the Agenda attachments.

Report

Jandakot Airport Holdings advised by letter of 4 February 2004 that they have had constant discussion with the developers and advised as follows:-

1. *“Potential Impact of Noise – The ANEF lines reflect the noise profile from all operations on the airport including taxiways and run-ups.*
2. *The proposed design places all dwellings beyond the 25 ANEF line, thus minimising the noise impact on the residents.*
3. *An arrangement has been entered into with the developers for the airport to acquire a 60 metre vegetation buffer along Johnson Road.*
4. *The airport will request the City of Cockburn for the closure of Johnson Road so this area can be amalgamated with the Jandakot Airport and revegetated.*
5. *It will be necessary for moratoriums to be placed on Titles advising of the possible noise affects on being close to the airport.”*

This application for subdivision is referred to Council because the applicant seeks a variation to Council's Subdivision Policy for Sand Extraction Sites and Other Sites in Jandakot & Banjup North of Armadale Road APD27 where several key planning criteria apply.

Lots 1 & 2 Johnston Road fall within Policy Precinct 3 where the Council doesn't support subdivision until:-

1. Rehabilitation criteria of excavation/rehabilitation plans have been achieved;
2. The soil blending operation and soil blending/fertiliser factory on Lot 186 (“Richgrow”) have ceased operating and all associated materials and structures have been removed.

The approved rehabilitation plan was prepared in 1980's and unfortunately only required the site to be seeded for pasture. Rehabilitation of the site has since never been satisfactorily achieved. The applicant has indicated that the subdivision process is the best mechanism to rehabilitate the subject land. Council Policy however requires rehabilitation to be achieved 'upfront' prior to subdivision. The land could still be rehabilitated but this would be to a lower standard than that proposed by the applicant. Under the circumstances it is recommended that Council vary this Policy requirement subject to the



applicant rehabilitating the land in accordance with Council's specifications. The works should be bonded for a period of 5 years.

The soil blending operation on the adjoining Lot 186 has the potential to cause environmental impacts on future residents in terms of odours from composting and fertiliser operations. The EPA guidelines specify buffer distances up to 1000m for residential development. For this reason the proposed subdivision would not normally be supported. The applicant has discussed the proposed subdivision with Richgrow and they have reviewed their operations. The applicant outlined that only a small quantity of chicken manure is blended and that the operations are 200 meters away from the nearest building envelope. Future operations are also restricted by a non-conforming use. It is concluded that the nature of the operations while significant is not to the extent that should limit the timing of this subdivision. A memorial or notification should be placed on new titles informing purchasers of the potential for impacts from the soil blending operation.

The subdivision pattern differs from the subdivision concept plan, which is part of the Council's Policy, but this is not considered to be significant. The Council's plan was only intended to be a guide.

Other issues relate to the Kennel Zone and nearby pistol club. Kennel owners recently contacted the City expressing concern that the subdivision of the land could result in future resident complaints about the kennel operations. The City has suggested to the Department of Planning and Infrastructure that the subdivision application be referred to the City of Canning for comment in relation to both the Kennel Zone and the pistol club and the implications on the subdivision design and layout. Most building envelopes would be more than 500 metres away from the kennels. The City of Canning also has 2,000sqm residential size lots within 90 metres of the Kennel Zone as opposed to the 2.0ha+ size lots proposed by this subdivision application. The background noise from aircraft was also an influencing factor on the levels of noise received from kennels. House construction should also include noise attenuation measures due to aircraft noise levels from the Jandakot Airport and this would minimise the impacts of other potential noise sources.

It is recommended that given the comments received from the Jandakot Airport Holdings there are no objections to the proposed subdivision from a planning point of view.

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
SPD3	Native Fauna Protection Policy
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD16A	Standard Subdivision Conditions and Reasons for Refusal
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and / or Drainage Areas
APD27	Subdivision Policy for Sand Extraction Sites and Other Sites in Jandakot & Banjup North of Armadale Road
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD34	Uniform Fencing Subdivision And Development
APD35	Filling Of Land

Budget/Financial Implications

N/A

Legal Implications

Town Planning and Development Act

Community Consultation

N/A

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

Nil.



14.10 (MINUTE NO 2345) (OCM 16/03/2004) - RETROSPECTIVE APPROVAL - RETAINING WALLS - 3 JOSHUA CLOSE, ST PAUL'S ESTATE, BIBRA LAKE - OWNER/APPLICANT: M J & T B BUTCHER (1118084) (CP) (ATTACH)

RECOMMENDATION

That Council:

- (1) approves the retrospective application for the construction of retaining walls on Lot 567 (3) Joshua Close, Bibra Lake as indicated on the plans submitted, 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.

Special Conditions:

1. The retaining walls shall be certified by a suitably qualified Structural Engineer to the satisfaction of the City.

Footnotes:

1. The applicant is advised the City is legally unable to issue a retrospective building license for the retaining walls. Special Condition 1 is therefore to ensure the retaining walls have been constructed to a suitable standard.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0



Background

ZONING:	MRS:	Urban
	TPS No.3:	Residential R-20
LAND USE:	Existing dwelling and retaining walls	
LOT SIZE:	640m ²	
USE CLASS:	"P" Class use	

Submission

An application has been made for retrospective approval for the construction of two off-set retaining walls within the primary street setback on the site. Both walls are 0.7m in height, separated by a distance of 1.8m, with the front wall located as close as 0.8m from the front boundary. A site plan showing retaining wall details is contained in the Agenda Attachments.

Report

As both retaining walls are greater than 0.5m high and are located within the required 6m street setback, a variation from the Residential Design Codes of WA is required.

The application is referred to Council as Council officers do not have delegated authority to decide retrospective applications.

In this instance, the application can be supported for the following reasons:

- The north western (street) side of the site has been retained behind the two walls described above, which are located approximately 1.8m apart. This has the effect of graduating the slope at the front of the site as opposed to having a continuous 1.4m high retaining wall situated along the street frontage.
- Vehicle sight distance from the driveway to the street has been preserved.
- The retaining walls do not adversely affect any other party.

Furthermore, approval of the application will be consistent with the following Performance Criteria objective outlined in the R-Codes:

Element 3.6.2 - "Retaining walls designed or setback to minimise the impact on adjoining property".

For these reasons, it is recommended the application be approved, subject to conditions.

Strategic Plan/Policy Implications

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



1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
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."*

The Planning Policies which apply to this item are:-

APD9 Retaining Walls
APD17 Standard Development Conditions and Footnotes

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

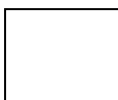
14.11 (MINUTE NO 2346) (OCM 16/03/2004) - RETROSPECTIVE APPROVAL - RETAINING WALLS - LOT 109; 14 KOWARA DALE, BEELIAR - OWNER/APPLICANT: A & N KLJAC (4413385) (CP) (ATTACH)

RECOMMENDATION

That Council:

- (1) approves the retrospective application for the construction of retaining walls on Lot 109 (14) Kowara Dale, Beelias as indicated on the plans submitted, subject to the following conditions:

STANDARD CONDITIONS:



2. 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.

SPECIAL CONDITIONS:

1. The retaining walls shall be certified by a suitably qualified Structural Engineer to the satisfaction of the City.

FOOTNOTES:

1. The applicant is advised the City is legally unable to issue a retrospective building license for the retaining walls. Special Condition 1 is therefore to ensure the retaining walls have been constructed to a suitable standard.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval.

COUNCIL DECISION

MOVED Cllr I Whitfield SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 7/0

Background

ZONING:	MRS:	Urban
	TPS No.3:	Residential R-20
LAND USE:	Existing dwelling and retaining walls	
LOT SIZE:	445m ²	
USE CLASS:	"P" Class use	

Submission

An application has been made for retrospective approval for the construction of two retaining walls within the primary street setback on the site, each being up to 600mm high. A site plan showing retaining wall details is contained in the Agenda Attachments.



Report

As the retaining walls are greater than 500mm high and located closer than 6m from the street boundary, variations from the Residential Design Codes of WA are required. The application is referred to Council as Council officers do not have delegated authority to decide retrospective applications.

In this instance, the application can be supported for the following reasons:

- The southern side of the site has been retained behind the two walls described above, which are located approximately 600mm apart. This has the effect of graduating the slope at the front of the site as opposed to having a continuous 1.2m retaining wall along the street frontage.
- Vehicle sight distance at the intersection has been preserved.
- The retaining walls do not adversely affect any other party.

Furthermore, approval of the application will be consistent with the following Performance Criteria objective outlined in the R-Codes:

Element 3.6.2 - "Retaining walls designed or setback to minimise the impact on adjoining property".

For these reasons, it is recommended the application be approved, subject to conditions.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
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."*

The Planning Policies which apply to this item are:-

APD9 Retaining Walls
APD17 Standard Development Conditions and Footnotes



Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

AT THIS POINT THE TIME BEING 9.15PM, CLR ALLEN RETURNED TO THE MEETING.

14.12 (MINUTE NO 2347) (OCM 16/03/2004) - FINAL ADOPTION OF AMENDMENT NO. 9 TO TOWN PLANNING SCHEME NO. 3 AND PROPOSED STRUCTURE PLAN - LOT 501 TROODE STREET, MUNSTER - APPLICANT: ROBERTS DAY GROUP (3315202; 93009) (JW) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant final adoption to the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO.3 (TPS3)

AMENDMENT NO. 9

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 amend the above Town Planning Scheme by:-

1. rezoning lot 501 Troode Street, Munster from 'SU 10 – Special Use' to 'DA 12 - Development Zone and Parks & Recreation Reserve' as depicted on the amendment map;
2. adding to the Eleventh Schedule – 'Development Areas' in the Scheme Text, 'Development Area (DA 12), Troode Street, Development Zone' and appropriate provisions as

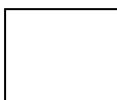


follows:-

- (i) An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.
- (ii) To provide for Residential development.
- (iii) To provide for a Local Parks and Recreation Reserve (to be designated Public Open Space and drainage) to accommodate the bushland/wetland area which is to be retained for conservation purposes.
- (iv) The provision of the Scheme shall apply to the zones and land uses classified under the Structure Plan in accordance with Clause 4.3 and 6.2.6.3

3. amending the Scheme Map accordingly.

- (2) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;
- (3) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval, the Scheme Amendment documentation be signed by the Mayor and Chief Executive Officer ready to be forwarded to the Western Australian Planning Commission upon receipt of the Hon. Minister's advice under Town Planning Regulation 24; and
- (4) adopt the proposed Structure Plan and report for Lot 501 Troode Street, Munster dated October 2003 subject to the following:
 1. Integration of a new dual use path within the 'Parks & Recreation' Reserve along the western side of the development as proposed in the Market Garden Swamp Environmental Management Plan – Concept Plan. This path is to connect to the existing path between Lots 56 and 71 and the development.
 2. The Scheme Amendment Report and Structure Plan Report being modified to reflect the proposed R coding shown on the Structure Plan.
 3. Provision for footpath along the southern portion of the proposed eastern entry road from Troode Street to Minga Place.



- (5) adopt the Schedule of Submissions as contained in the Agenda attachment; and
- (6) advise the Western Australian Planning Commission, the Environmental Protection Authority and those persons who made a submission of Council's decision.

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that Council:

- (1) grant final adoption to the following amendment:-

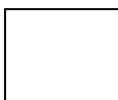
TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO.3 (TPS3)

AMENDMENT NO. 9

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 amend the above Town Planning Scheme by:-

1. rezoning lot 501 Troode Street, Munster from 'SU 10 – Special Use' to 'DA 12 - Development Zone and Parks & Recreation Reserve' as depicted on the amendment map;
2. adding to the Eleventh Schedule – 'Development Areas' in the Scheme Text, 'Development Area (DA 12), Troode Street, Development Zone' and appropriate provisions as follows:-
 - (i) An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.
 - (ii) To provide for Residential development.
 - (iii) To provide for a Local Parks and Recreation Reserve (to be designated Public Open Space and drainage) to accommodate the bushland/wetland area which is to be retained for conservation purposes.
 - (iv) The provision of the Scheme shall apply to the zones and land uses classified under the Structure Plan in accordance with Clause 4.3 and 6.2.6.3.

- (v) Development of the Group Housing site located east of the wetlands and adjoining Gumina Place is subject to a study by the developer to the Council's satisfaction, to determine if the site is used for breeding by long necked tortoises and depending upon the outcome, the future planning and development of the site will be decided by the Council.
3. amending the Scheme Map accordingly.
- (2) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;
- (3) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval, the Scheme Amendment documentation be signed by the Mayor and Chief Executive Officer ready to be forwarded to the Western Australian Planning Commission upon receipt of the Hon. Minister's advice under Town Planning Regulation 24; and
- (4) adopt the proposed Structure Plan and report for Lot 501 Troode Street, Munster dated October 2003 subject to the following:
 1. Integration of a new dual use path within the 'Parks & Recreation' Reserve along the western side of the development as proposed in the Market Garden Swamp Environmental Management Plan – Concept Plan. This path is to connect to the existing path between Lots 56 and 71 and the development.
 2. The Scheme Amendment Report and Structure Plan Report being modified to reflect the proposed R coding shown on the Structure Plan.
 3. Provision for footpath along the southern portion of the proposed eastern entry road from Troode Street to Minga Place.
 4. The proposed R40 Group Housing site adjoining Gumina Place, be noted with the words "Subject to Further Investigation and Determination".
- (5) adopt the Schedule of Submissions as contained in the Agenda attachment; and



- (6) advise the Western Australian Planning Commission, the Environmental Protection Authority and those persons who made a submission of Council's decision.

CARRIED 7/1

Explanation

The site may be a probable breeding area of the long necked tortoise and to date, there has been insufficient information to confirm this. In the circumstances, the future development of this land within the Structure Plan should be delayed until this is known.

Background

ZONING:	MRS:	Urban
	DZS:	Special Use 10
LAND USE:	Cable Water Ski Park	
LOT SIZE:	14.4 Ha.	
AREA:	N/A	
USE CLASS:	Recreation - private	

At the Ordinary Meeting on 21 October 2003, Council resolved to initiate the Scheme Amendment No.9 (Minute No 2177). It also resolved to advertise the proposed Structure Plan for Lot 501 Troode Street, Munster, at the same time as the advertising of the Amendment, subject to the Structure Plan being amended to the satisfaction of the Director, Planning & Development.

Submission

A revised Structure Plan and Report dated October 2003 was submitted to Council, which shows that the buffer to the wetland at the entry off Troode Street was increased by reducing the width of the road to 13m and realigning the northern portion to be in line with the southern portion. The modified Structure Plan complies with Council's recommendation made on its meeting of 21 October 2003, and was considered suitable for advertising.

Report

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

The City has not been informed of the determination of the Environmental Protection Authority under Section 48A within 28 days of making the referral.



As it is the opinion of the City that the Environmental Protection Authority has received sufficient information to determine whether or not the amendment needs to be assessed under Section 48A, the Amendment was advertised in accordance with the Regulations for a period of 42 days.

The advertising of the Structure was undertaken at the same time as the advertising of the Amendment in accordance with the provision of Clause 6.2 of Town Planning Scheme No.3.

Owners of property near the subject land and relevant agencies and servicing authorities were written to and invited to comment. Signs were erected on site and both West Australian and local newspapers carried advertisements of the proposal.

The advertising of the proposal was concluded on 20 February 2004. At the close of the advertising period a total of 25 submissions and one petition with 85 signatures were received. A schedule of submissions and the recommended responses is included in the Agenda attachments.

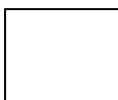
In addition there were 3 late submissions and one late petition as follows:

- 20 February 2004, a petition from Mr Robert Jenkinson, 26 Kotisina Gardens, Munster strongly objecting to the R40 Group Housing site and supported the retention of the bushland. The petition contained 38 signatures.
- 20 February 2004, an objection was received from Lynette Brkusich, 22 Barrett Street, Spearwood.
- 23 February 2004, an objection was received from Drazana and Ivan Savic, 3/2 Bramston Street, Spearwood.
- 26 February 2004, a letter of no objection was received from the Department of Health.

All the submissions have been appropriately responded to in the Schedule of Submissions. Four issues have been raised which warrant further discussion in this report as follows:

- 50 metre wetland buffer

Wetland and Bush Forever site No.435 (approximately 33% of the land) are located on the western and southern portion of the site. A general agreement was made between Bush Forever Office and Water and Rivers Commission (WRC) that the Resource Enhanced Wetland (REW) boundary is taken as the current Bush Forever site boundary. The WRC advised that the REW wetland would be treated as a



Conservation Category Wetland (CCW) in this instance as it contains regionally significant vegetation. Therefore a 50m minimum vegetated buffer is required from the wetland boundary and all development shall be located outside of the buffer.

The proposed Structure Plan indicates a reduced wetland buffer as shown in the attached map.

There has been extensive discussion between the City officers, representatives from environmental authorities and the proponents in regard to the wetland buffer issue. The Council's Environmental officer supports the advice from the WRC. Similar advice was provided by Council's Environmental officer in an Environmental Assessment previously undertaken.

In the letter dated 16 September 2003, the proponent raised its objection to the 50m buffer requirement by arguing that:

1. The wetland is not a Conservation Category Wetland and therefore a 50m fully vegetated buffer is not mandatory.
2. At present the wetland has no buffer apart from a fence along a portion of the boundary of the vegetation.
3. The proposed buffer as shown in the Structure Plan and extensive rehabilitation works will improve the standard of the wetland and associated vegetation.
4. Approximately 33% of the land (Bush Forever Site) is to be set aside for conservation and rehabilitation free of cost.

Council Planning officers consider that the proposed wetland buffer shown in the Structure Plan, together with Australand's commitment to giving up the wetland free of cost and rehabilitation works to be undertaken, as being a reasonable compromise between the WRC and the applicant.

Further more, the Amendment map advertised indicates the inclusion of the Bush Forever site and wetland area as "Parks and Recreation", gives statutory force to protect the environmental values present on site. Also, the Structure Plan advertised shows that the alignment and width of the entry road off Troode Street has been modified to satisfy Council's requirement on the buffer issues resolved on 21 October 2003.

The satisfactory establishment of the buffer is an issue for the Western Australian Planning Commission (WAPC) to resolve and determine.

- Group Housing Development at the South West corner

The proposal is to utilise the cleared portion of the Bush Forever site at the southwest corner of the land for grouped housing development. No



detailed site plan for this development has been submitted to Council for assessment.

No objection has been received from the Bush Forever Office in regard to the group housing development on the Bush Forever site by the close of the advertising period.

Objections were raised from the local residents living in proximity to the subject site. The main consideration is that the proposed group housing development would increase the traffic on Kotisina Gardens and Gumina Place and create safety and amenity problems to the area.

Council Planning officers consider that the potential impact from the group housing development would be minimal given that at maximum development, the group housing site could accommodate 15 dwellings, generating approximately 120 vehicles trips per day. The existing access roads in the locality can easily accommodate an increase in traffic generated by the group housing development without compromising the safety or amenity of the area.

A Detailed Area Plan will be required at the subdivision stage to demonstrate that the development complies with the planning regulations and will not create safety and amenity issues to the local community.

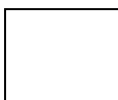
- Connectivity with Minga Place

The Structure Plan shows that two road access points are proposed onto Troode Street with a third road access provided into Minga Place by a roundabout at the southeast corner of the site.

Objections were raised to the proposed connection with Minga Place from the local residents living at Minga Place, Anka Gardens and Okra Court. The reasons are:

1. Their properties were purchased because of Minga Place was a Cul-de-sac,
2. The connection with Minga Place will increase the traffic in the local area and create safety and amenity issues.

There may be some additional traffic generated in Minga Place as a result of this connection. However, it is anticipated that most traffic accessing the development would be from the north via Troode Street given the location of the community facilities (ie. Shops, schools and beach). The continuation of Minga Place will only provide a minor connection to the development, and may accommodate local traffic trips for future residents in the south east portion of the site.



It is considered that the proposed roundabout connection will provide a permeable street network and better connectivity to both current and future residents in the area and represents sound planning principles.

- Potential noise impact from Lot 25, Troode Street (the St Jeromes Roman Catholic Church and Primary School site)

The Structure Plan shows that the residential development is backing onto the western boundary of Lot 25 Troode Street - the St Jeromes Roman Catholic Church and Primary School site.

An issue was raised in regard to the potential noise impact on the proposed residential development from the activities on Lot 25 Troode Street.

This concern is acknowledged. However, the proposed subdivision and its relationship to the school is considered to be no different from that generally found. This is not considered to be an issue, given that the future lot purchasers will be fully aware of the school and its associated activities. Moreover, the school is required to operate within the requirements of the Noise Regulations.

Summary

The Structure Plan meets most planning criteria for a proposal of this type. No major issues raised from the submissions would result in the Scheme Amendment No.9 and the Structure Plan not proceeding as proposed.

It is recommended that Council resolve to grant final adoption to the TPS 3 Amendment No.9 and adopt the Structure Plan for Lot 501 Troode Street, Munster subject to the changes noted listed in the recommendation, and advise the WA Planning Commission of Council's decision accordingly.

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."*



The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD2	Community Facilities Infrastructure - 10 Year Forward Plan
SPD3	Native Fauna Protection Policy
SPD4	'Liveable Neighbourhoods'
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and / or Drainage Areas
APD26	Control Measures for Protecting Water Resources in Receiving Environments
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

Budget/Financial Implications

N/A

Legal Implications

The provisions of TPS No.3
Metropolitan Region Scheme

Community Consultation

Advertised for public comment for a period of 42 days. Signs were erected on site and adverts placed in both the West Australian and local newspapers. Adjoining owners and relevant authorities were sent letters advising of the proposal.

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

Nil.

14.13 (MINUTE NO 2348) (OCM 16/03/2004) - PROPOSED SUBDIVISION RETAINING WALL - LOT 412 GAEBLER ROAD, HAMMOND PARK - OWNER: GOLD ESTATES OF AUSTRALIA (1903) PTY LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (5513387) (VM) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the application for construction of a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park,



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. 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.
4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the Council in the event that sand or dust is blown from the site.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

Special Conditions

7. The design of the wall at the rear of Lot 144 to be modified, as shown as amendments in red, so that the wall continues along the entire rear boundary of Lot 144.
8. 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.

Footnotes

1. The development is to comply with the requirements of the



- Building Code of Australia.
2. 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 an Application for Planning Approval to the applicant; and
 - (3) advise those who lodged a submission of Council's decision.

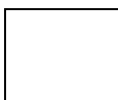
- COUNCIL DECISION**
 MOVED Clr I Whitfield SECONDED Deputy Mayor R Graham that Council:
- (1) defer consideration of the application for a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park to allow negotiations between the affected landowners (objectors), the applicant and Ward Members over the height of the retaining wall;
 - (2) reconsider the application at the next Ordinary Meeting of Council; and
 - (3) advise the applicant and those who made submissions accordingly.
- CARRIED 8/0**

Explanation

Two submissions of objection were received from landowners of Plumwood Avenue who believe the proposed retaining walls will have an unacceptable visual impact at the rear of their lots. The developer of the adjoining subdivision is proposing to move sand to the lot boundary of residential lots on Plumwood Avenue and replace the existing fences with a retaining wall. Negotiations are needed between the applicant and the affected landowners (objectors), to discuss concerns and resolve the issue for all parties concerned.

Background

ZONING:	MRS:	Urban
	TPS3:	Development Zone – Development Area 9 – DA9
LAND USE:	Vacant land	



LOT SIZE:	overall 48.5623 ha
USE CLASS:	Single (R-Code) House – Permitted Use

On 8 December 2003 the previous landowner (Australand) of the lots fronting Plumwood Avenue, advised the new owners of the Plumwood Avenue lots that a retaining wall will be proposed at the rear of the existing lots. Plans of the walls were also to be sent to the new owners. Australand requested the new owners to allow access to their lot for contractors to construct the rear retaining wall.

As a result of the consultation, one of the adjoining owners wrote to the City (letter dated 18 December 2003), expressing concerns with regards to the proposed height of the retaining wall. Attached to the letter the landowner submitted the previous landowner's letter (Australand's letter and a copy of the Plans) (Refer to Agenda attachments). The City contacted the previous landowners (Australand) and advised that:-

"..Earthworks proposed as part of subdivisional works under Section 20D of the Town Planning and Development Act is exempt from the requirement of planning approval pursuant to the City's Town Planning Scheme No. 3. We are currently seeking advice from the Western Australian Planning Commission on whether or not planning approval from the Council is required for subdivisional retaining walls pursuant to the MRS.

Notwithstanding the above the purpose of this letter is to bring the concerns of the La Hogue family to your attention and seek your comments. The introduction of the Residential Design Codes 2002 – Element 6 Site Works is useful to refer to in this instance. In applying the R-Code principles the retaining wall could be stepped so that it is partially up to the rear boundary and the balance setback within the new allotment. This would reduce the visual impact of the proposed retaining wall on the La Hogue family. I would welcome your thoughts on this option or other ideas you may have to reduce the visual impact of the development."

The City also provided the same advice to the applicant. Given that objections to the height of the retaining wall were received from adjoining landowners and that the Commission's advice has not been received, it was reasonable to request the proponent to lodge an MRS application for approval to Commence Development to the City. The Development Application would enable the City to consult with the affected owners. (Retaining walls higher than 0.5 metres are subject to consultation to adjoining owners in accordance with Clause 2.5.2 of the Residential Design Codes).

The proponent agreed to lodge a Development Application to Council for a retaining wall which was received on 11 February 2004.



Submission

Approval has been sought for a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park. The retaining wall will abut the southern boundary of Lots 143 to 150 Plumwood Avenue.

As part of the application the applicant's engineer has provided the following statements.

"We confirm that the retaining wall proposed for the boundary of Lot 412 Gaebler Road and Lot 202 Russell Road has been designed to the minimum feasible height similar to the numerous walls already constructed within the Frankland Springs Estate.

We have already compromised by starting the proposed lots fronting Barfield Road with a finished level 500mm below the road pavement level.

The walls then step down away from Barfield Road to produce the minimum level lots on the current proposed plan for the Lot 412 subdivision and to match to the existing side walls in Lot 202.

All these walls have been designed to the standard City of Cockburn requirements."

The retaining wall varies in height from 0.74m to 2.2m at its highest point along the rear of Lot 148 Plumwood Avenue.

Report

The application has been referred to Council for determination as it involves an appraisal of submissions of objection received from two adjoining land owners.

The application was referred for comment to 8 adjoining owners along Plumwood Avenue in accordance with Clause 2.5.2 of the Residential Design Codes. Two submissions were received (refer to Agenda attachments) objecting to the proposed height on the following grounds:

- the visual bulk of the height of the wall; and
- the proposed height will decrease the value of the property

The proposed height of the retaining wall is required to ensure lots from a proposed southern road on Lot 412 are relatively level to the proposed road. The proposed road on Lot 412 has been approved following the natural ground contours, as the road levels rise from 27 to 30 AHD. The proposed southern lots abutting the proposed retaining



wall will have finished floor levels of similar heights to the proposed road or approximately 0.5 metres below the road levels.

Under the performance criteria of the Residential Design Codes development must retain the visual impression of the natural level of a site as seen from the street or from an adjoining property as reasonable.

The lots on Plumwood Avenue abutting the retaining wall were subject to earlier earthworks (excavation) to ensure that the lots were created level to the road, to minimise earthworks costs to new owners. As the land raised substantially from 25 to 30 AHD, side retaining walls perpendicular to Plumwood Avenue were constructed, however, on the rear of the lots where the retaining wall subject of this application is proposed a colourbond fence was erected instead. The natural ground level was also raised from the front to rear. This natural ground level was modified to ensure the lots were sold level to the road.

The proposed height of the retaining walls are required to ensure new residential lots to the south of the wall are retained to create level building sites for house construction in a similar manner as the Plumwood Avenue lots. The applicant has already dropped 0.5m from the finished floor level of the new lots from the front of the road in order to minimise construction costs and not substantially reduce the market appeal of the lots. The City's previous suggestion of a tier wall to minimise the bulk impact to adjoining owners is not recommended as this would reduce the development area of the lot which is quite significant given the proposed size of the lots. The applicant is building to average ground level of the land and given that the walls are located on the southern boundary of the lots fronting Plumwood Avenue, the overshadowing effect to the lots is minimal.

There will be a height and scale impact of the proposed retaining wall on the owners along Plumwood Avenue, however, given that the walls height is required to ensure the average ground level is maintained, the walls can be supported. Otherwise it would be unreasonable for the developer on Lot 412 to create lots that drop approximately 3 metres from the road levels as this would be the case if no walls were to be erected.

With regard to comments received from an adjoining lot owner (Lot 114) with regards to the location of the wall, it is reasonable for the applicant to modify the plan to ensure the wall matches the rear fence boundary and slightly decreases in height to Lot 145. This has been discussed with the applicant and the submitted plans will be modified. This can be addressed as a condition of approval.

Given the above, approval to the proposed retaining wall is recommended subject to conditions.



Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
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."*
 - *"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:-

APD17 Standard Development Conditions and Footnotes
APD32 Residential Design Codes

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Application was advertised for comment for 14 days. Two submissions were received.

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

Nil.



14.14 (MINUTE NO 2349) (OCM 16/03/2004) - FINAL ADOPTION - AMENDMENT NO. 7, TOWN PLANNING SCHEME NO. 3 - LOTS 194, 195, 196 AND 197 BERRIGAN DRIVE, JANDAKOT - OWNER: SPORTLINE HOLDINGS PTY LTD - APPLICANT: HENDER & FARRIS REAL ESTATE (93007) (JMR) (ATTACH)

RECOMMENDATION

That Council:

(1) delete the child care centre component of the scheme amendment after having due regard to the advice of the EPA, which raised concerns over the potential adverse impact on the learning ability of children from aircraft noise and the potential for the noise sensitive premises to encroach upon Jandakot Airport;

(2) adopt the following amendment as modified:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 7

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 amend the above Town Planning Scheme by

1. Amending the Scheme Text, Schedule 3 – Restricted Uses RU6 to include a Showroom use only and modifying the description of land to read as follows:-

“Lots 100 on Plan 34223, 196 on Plan 23231 and 197 on Diagram 96391 Berrigan Drive, Jandakot and Reserve 45747”

2. amending the Scheme Map accordingly.

Dated this.....day of2004

Chief Executive Officer

(3) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;

(4) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval; instruct the applicant to modify the amendment documents in accordance with the



Council decision and the documentation be signed by His Worship the Mayor and the Chief Executive Officer;

- (5) adopt the comments on submissions and advise each person who made an individual submission accordingly; and
- (6) advise the applicant of the Council's decision.

COUNCIL DECISION

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

- (1) adopt the following amendment as modified:-

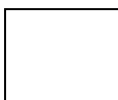
TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 7

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, amend the above Town Planning Scheme by:

- 1. Amending the Scheme Text, Schedule 3 – Restricted Uses RU6 to include a Showroom use only and modifying the description of land to read as follows:-
 - (i) Add to the existing schedule of uses, the new uses of Showroom and Child Care Premises with the Child Care Premises restricted to lot 197 Princep Road only.
 - (ii) The design and construction of the Child Care Premises must be in accordance with an Acoustic Consultant's report that demonstrates compliance with the internal noise levels of AS2021 – 2000 Acoustics – Aircraft noise intrusion – Building Siting and Construction.
 - (iii) Lots 100 on Plan 34223, 196 on Plan 23231 and 197 on Diagram 96391 Berrigan Drive, Jandakot and Reserve 45747”
- 2. amending the Scheme Map accordingly.

Dated this 16th day of March 2004



Chief Executive Officer

- (2) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;
- (3) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval; instruct the applicant to modify the amendment documents in accordance with the Council decision and the documentation be signed by His Worship the Mayor and the Chief Executive Officer;
- (4) adopt the comments on submissions and advise each person who made an individual submission accordingly; and
- (5) advise the applicant of the Council's decision.

CARRIED 8/0

Explanation

Although the advice provided by the EPA has been considered, it is believed that adequate noise attenuation measures can be introduced into the building design and the construction to address concerns regarding the impact of aircraft noise.

Background

Council approval has been granted for a local commercial centre development on Lots 100 Berrigan Drive. Construction work has recently commenced. For locations, see plans attached.

Lots 100 and 197 Prinsep Road (cnr Berrigan Drive) are zoned Local Centre – Restricted Use (“RU6”) which is limited in Schedule 3 of Town Planning Scheme No 3. TPS3 restricts the development and use of the subject land as follows:-

“Office, Restaurant and Fast Food Outlet, veterinary consulting rooms, reception centre, health studio, medical centre, shop.”

Submission

The applicant has provided the following justification for the proposed scheme amendment:-

“Under your current Town Planning Scheme No 3 all lots are zoned Local Centre – Restricted Use. The restricted uses include office,



restaurant fast food, veterinary consulting rooms, reception centre, health studio, medical centre and shop.

The Owner would like to extend the uses to include Child Care Centre and Showroom.

We have already had a preliminary meeting with you to discuss the development of a child care centre on lot 197. A substantial public company who operate some 140 child care outlets throughout Australia is keen to operate a child care facility from this site.

ABC DEVELOPMENT LEARNING CENTRES PTY LTD are leading child care providers in Australia who operate from state of the art buildings specifically designed for learning and child care. They are renowned for providing a safe, secure environment for children serviced and supervised by experienced staff.

...Whilst proposing a rezoning amendment for Child Care the Owners also wish to apply for an additional use of SHOWROOM. The lots are already zoned for shops/fast food and restaurant and there would seem to be no reason why showroom, being a more passive use, should not be permitted.

There are no plans to develop showrooms for any of the lots but the flexibility should be there to provide this facility should the requirement arise.”

Report

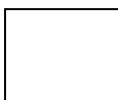
The scheme amendment was advertised in accordance with the Planning Regulations. At the close of the 42 day submission period four submissions of objection were received.

The following main concerns were raised by submissions:-

- Area doesn't warrant another child care centre;
- Noise from the proposed centre
- Already high quality centre in the area and Council has a responsibility to ensure that other business doesn't suffer.

A detailed summary of the issues of concern is included in the attachments and should be read in conjunction with this report.

The proposal is consistent with the objective of the Local Centre Zone, which is to provide for convenience retailing, local offices, health, welfare, and community facilities which serve the local community, consistent with the local –serving role of the centre. While the public comments above could be addressed as conditions of development approval there were more significant environmental concerns, which questioned the appropriateness of the proposed child care centre.



The scheme amendment was referred to the Environmental Protection Authority for comment in accordance with the Regulations. The EPA determined that the scheme amendment did not require a formal assessment and instead provided the following advice on the key environmental factors.

- The key environmental factor is the impact of aircraft noise on the amenity and health of children and occupants of the proposed child care centre;
- The EPA's assessment included an evaluation of the proposal based on the Australian Noise Exposure Forecast (ANEF) zones for sensitive land uses. The EPA don't support new noise-sensitive development, including child care centre and learning centres within the ANEF 25 contour;
- The EPA initially thought the centre was between the Jandakot Airport ANEF 25 and ANEF 30 contour and therefore didn't support the proposal. The site was incorrectly referred to in this context and subsequent advice of 19 February 2004 by Herring Storer Acoustics confirmed that the site is within the ANEF 20 contour but the EPA still objected to the scheme amendment;
- In its advice the EPA referred to research demonstrating the negative effect of aircraft noise on children's health and learning (ie Munich Airport Study) where primary aged children at the old and new airport sites were compared with matching controls before and after the relocation of the airport. At the new airport, long term recall and language abilities became impaired when the airport went into operation. At the old airport site, the opposite was true – long-term recall and language abilities were improved.

In response to the concerns of the EPA the applicant engaged Herring Storer Acoustics (HAS) who contacted the Principal Environmental Officer (Noise) at the DEWCP to discuss the acoustic aspects of the project. On 19 February 2004 from HAS confirmed that the EPA reaffirmed their concerns with the proposal and that noise exposure to children outside required addressing and a structure over the entire centre is not an acceptable option. The Department were also concerned about the need to maintain an adequate buffer around Jandakot Airport and to prevent development encroaching closer to the airport. Herring Storer Acoustics also acknowledged that due to the Departments opposition to the development, they recommended that a site be found and developed.

The child care centre component of the scheme amendment is not acceptable from a planning viewpoint after having due regard to the EPA's advice. Accordingly it is recommended that Council modify the



scheme amendment to delete the child care centre use from the proposed restricted use schedule and proceed with the showroom use.

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."*

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

The Planning Policies which apply to this item are:-

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Community consultation is required pursuant to the Town Planning Regulations

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES



15.1 **(MINUTE NO 2350) (OCM 16/03/2004) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

RECOMMENDATION

That Council receive the List of Creditors paid for February 2004, as attached to the Agenda.

COUNCIL DECISION

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

CARRIED 8/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.



16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (MINUTE NO 2351) (OCM 16/03/2004) - TENDER NO. 01/2004 - SUPPLY AND INSTALLATION OF CAPPING SYSTEM FOR CELL 3 AT HENDERSON LANDFILL SITE (4900) (BKG) (ATTACH)

RECOMMENDATION

That Council:

- (1) accept the submission from Canning Vale Earthmoving Pty Ltd for Tender No. 01/2004 – Supply and Installation of Capping System for Cell 3 at the Henderson landfill site for the sum of \$1,107,866.10 (GST) included, subject to the contract period being revised to 12 weeks and confirmation of insurance requirements; and
- (2) amend the budget to increase the allocation for Account Number 1905 Post Closure Cost of Existing Cell, to \$1,149,625.00 and transferring \$350,000 from the Rubbish Development Reserve Account, to cover the cost of the Project.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

A tender was called in April 2003 for the capping of Cell 3 at the Henderson landfill site.

When a cell is filled to its design height, the cell is capped with an impervious layer to prevent rain from getting into the waste.

At the meeting of 20 May 2003, it was resolved that Council :

- “(1) does not accept any tenders for Tender No. 08/03 – Supply and Installation of Capping System to Henderson Landfill;*
- (2) recalls the tender for earthworks and capping in August 2003; and*



(3) *calls tenders for the purchase of the synthetic liner in August 2003.*"

Due to lack of staff resources, this programme was not met.

A consulting engineering company, GHD Pty Ltd, was appointed and have now completed the tender documents for the supply and installation of the liner for Cell 3.

Tenders were called and closed on Tuesday 17th February 2004.

Submission

Four (4) conforming tenders were submitted from 4 companies. The prices are attached to the Agenda.

Report

The assessment criteria outlined in the tender documents are:-

Price	50%
Demonstrated Experience in similar projects	20%
Technical Conformance	10%
Safety Management	5%
Quality Assurance	5%
Referees	10%

On this basis the scores of each company were:

Canning Vale Earthmoving	97.5
Georgiou Group	93.2
Marsh Civil	87.0
Roadstone	82.1

The assessment of the tenders was carried out by staff from GHD. A copy of their assessment is available from the Director – Engineering and Works.

Canning Vale Earthmoving were awarded the contract for the capping of Cell 2 at Henderson Landfill and carried out the work satisfactorily.

The tender documents specified that Geosynthetic Clay Liner (GCL) be used as the impermeable layer for covering the waste in Cell 3. Three of the companies provided prices for the installation of PVC liner. These prices were lower than the GCL option.

However, the GHD report states:

“Although the alternative tenders submitted could be classed as non-conforming and therefore rejected, it was felt that as both Tenders



were locked into a price and there was a possible saving of approximately \$130,000, it was justified to make further enquiries to see whether an alternative tender could be accepted. The lowest two Tenderers were asked to provide additional information in order to comply with the tender requirements. This did not influence the tender outcomes. Unfortunately, neither Tenderer could provide calculations or would guarantee that the alternative offered would perform satisfactorily, even though they both indicated that they would and cited examples of previous projects where the proposed materials were performing satisfactorily.

In order for the City of Cockburn to satisfy itself that the alternatives would perform satisfactorily, it would have to carry out shear testing on the proposed cover material to ensure stability. This is time consuming as the City supplied material would have to be mixed with sand in various proportions to get representative samples. Material to be imported by the contractor would also have to be tested. With the approach of winter, this process will delay project completion and there is a risk that weather will further delay completion.

Furthermore, advice from Stuart Dever, GHD's Principal Engineer – Waste Management, indicates that the alternative capping systems offered would not provide the same level of confidence and performance as the proposed GCL capping system. All alternatives offered would have a higher risk of failure ie. leakage / rainfall infiltration or lack of stability on the steep final landform slopes. To provide the same degree of confidence and performance the proposed alternatives would need to be modified eg. by using a thicker geomembrane, textured geomembrane on the steeper slopes, and / or protecting the geomembrane with geotextile layers, which would increase the cost of the alternatives and probably negate the cost advantages of the alternatives offered.

Based on the fact that the Tenderers failed to provide the required information and guarantees, despite being given the opportunity to do so, and the fact that the alternatives offered would not provide the same level of confidence and performance as the GCL capping system, the alternatives were deemed non conforming and not considered further.”

GHD recommend:

- (1) that Canning Vale Pty Ltd be awarded the contract;
- (2) that the contract period be revised to 12 weeks because both the lowest tenderers advised that the contract period was inadequate;
- (3) that Council consult with its insurers to confirm the requirement for the contractor to have professional indemnity.



Strategic Plan/Policy Implications

One of the objectives of the Strategic Plan is to have an environmentally sound management strategy for Council's disposal of waste.

Budget/Financial Implications

There is an allocation of \$799,625 for post closure and capping of waste cells at Henderson Landfill.

The tender price for this work is \$1,107,866.10.

To enable the work to be carried out and to cover any variations that may occur, it is recommended that \$350,000 be transferred from the Rubbish Development Reserve Account.

The increase in tender price is due to the cost of importing the sand. The price for this portion of the tender has increased considerably in the past 12 months. The price for purchase and laying the liner was very similar.

Legal Implications

N/A

Community Consultation

It is a requirement of the licence from the Department of Environment to cover Cells with an impermeable layer when they are completed. They have advised that a works approval for this contract is not necessary. It is not intended to consult the public about this work.

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

Nil.

16.2 (MINUTE NO 2352) (OCM 16/03/2004) - BUDGET REVIEW WORKS - SOUTH COOGEE AGRICULTURAL HALL - UPGRADE KITCHEN (1950) (JR)

RECOMMENDATION

That Council:

- (1) receive the report and not proceed to relocate and upgrade the kitchen at the South Coogee Agricultural Hall to its original location; and
- (2) amend the Municipal Budget by transferring \$24,898 from



Account No. CW4037-6501 'South Coogee Agricultural Hall – New Kitchen' to the 'Major Building Refurbishment Reserve'.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

At the Ordinary Meeting of Council held on 16 December 2003, the Budget was reviewed and amended. The allocation of \$14,902 on the current Budget to upgrade the existing small kitchen at the South Coogee Agricultural Hall was increased to \$39,800 to re-locate and upgrade the kitchen in its original location at the hall. This was subject to a report being presented to a future Council Meeting before work commences on the project.

Submission

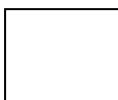
Upgrading of the original kitchen rather than the smaller current kitchen would improve the potential for increased use of the hall.

Report

The current kitchen is not adequate for function activities and does not comply with health requirements. Consequently, funds were allocated on the current Budget to upgrade the kitchen to meet health requirements.

Following the budget allocation to upgrade the current small kitchen, the Community Services Department have identified the following points favouring the relocation and upgrade of the kitchen in its original and larger location:-

- The relocation will establish the kitchen in its original location in this heritage-listed building.
- The current kitchen can be converted to a secure storeroom for regular hirers' and Council equipment, tables and chairs. This is currently unsecured.



- The larger kitchen makes the hall viable for use for weddings and other larger functions not catered for at the moment. Should the original kitchen be re-established, an intense promotion plan will be undertaken to increase the current low usage of the facility, particularly as it is located away from built-up residential areas.

Despite the foregoing points favouring the re-establishment of the kitchen in its original location, there is no guarantee that hall usage will increase, even with intense promotion. In addition, the future development of the adjacent Marine Technology Park may identify alternative uses for the hall. Consequently, it is considered that only the minimal upgrade to the current kitchen should be undertaken at this stage to comply with health requirements. This is in accordance with the original allocation on the 2003/04 Budget. The situation can be reviewed once future requirements and usage for the hall are more clearly identified.

Strategic Plan/Policy Implications

A Council strategic commitment is to facilitate and provide an optimum range of community services.

Budget/Financial Implications

The original Budget allocation of \$14,902 will allow for the upgrade of the current kitchen to meet health requirements. The additional funds allocated (extra \$24,898) will allow the kitchen to be re-located and upgraded in its original location.

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES



17.1 **(MINUTE NO 2353) (OCM 16/03/2004) - 2004 ANNUAL GENERAL MEETING OF ELECTORS - MOTION - SECURITY PATROLS (8953) (DMG)**

RECOMMENDATION

That Council not consider the matter of whether security / surveillance patrols be introduced into Cockburn on a Ward by Ward basis, due to the practical difficulties which would be encountered with such a system.

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

At the Annual General Meeting of Electors conducted on 3 February, 2004, the following motion was carried in relation to a proposed security patrol service:-

“That the issue of security / surveillance patrols be looked upon ward by ward.”

Submission

To not support the motion carried by the Electors’ Meeting.

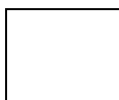
Report

Previous Council decisions on this subject have focussed on whether a district wide security patrol / surveillance service should be considered in Cockburn.

Consequently, all associated research and consultation has been open for residents of all areas within the district to participate in.

There has been no distinct rejection or overwhelming support for the service from particular locations or suburbs within Cockburn identified during the research process.

Accordingly, it would now seem incongruous for Council to reconsider its approach to the issue, based on a ward by ward effect.



Any economies of scale can only be gained by having the service spread across the whole of the district.

In addition, it would be impractical for a patrol to operate effectively if, for example, they were operative in the West and East Wards, but not in the Central Ward, as there would be occasions when officers would be required to transgress Central Ward to attend a priority activity in an opposite Ward. It would be difficult to comprehend an officer ignoring an incident which may be observed in a non-levied area of the City.

There would also be administrative difficulties in initially differentiating calls from non-levied residents seeking assistance from those which are from within the service area.

For these reasons, it is considered that a service on a ward by ward basis should not be contemplated.

Strategic Plan/Policy Implications

Key Result Area "Facilitating the Needs of Your Community" refers.

Budget/Financial Implications

N/A

Legal Implications

Sec. 5.33 of the Local Government Act, 1995, requires all decisions made at electors' meetings to be formally considered by Council.

Community Consultation

Extensive community consultation has been undertaken by Council on this subject during 2003.

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

Nil.

17.2 (MINUTE NO 2354) (OCM 16/03/2004) - MUSEUM ADVISORY COMMITTEE MEETING MINUTES 24 FEBRUARY 2004 (1960) (DMG) (ATTACH)

RECOMMENDATION

That Council receives the Minutes of the Museum Advisory Committee dated 24 February, 2003, and adopt the recommendations contained therein.



COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

The Inaugural Meeting of the Committee was conducted on 24 February, 2004, to consider recommendations on the budget submissions for 2004/05.

Submission

N/A

Report

Refer to Committee Minutes. In summary, the Committee supports proposals for Council funding to the level presented for the 2004/05 financial year, which will assist the Committee in achieving its objectives outlined in its amended Strategic Plan document, 2003 – 2008.

Strategic Plan/Policy Implications

Key Result Area “Facilitating the Needs of Your Community” refers.

Budget/Financial Implications

As per budget submission.

Legal Implications

N/A

Community Consultation

N/A

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

Nil.



17.3 (MINUTE NO 2355) (OCM 16/03/2004) - RECREATIONAL RESERVE - PORTION OF LOT 393 BAKER COURT, NORTH LAKE (1100097) (RA)

RECOMMENDATION

That Council call tenders for the lease of a portion of Lot 393 Baker Court, North Lake with the qualitative criteria for selection of tenders as detailed in the report and the annual Lease fee based on the equivalent of rates payable on the property.

COUNCIL DECISION

MOVED Clr A Edwards SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Council at its meeting of the 19 September, 2003, resolved to accept the transfer of the Management Order with the power to lease for Lots 172 and 393 Baker Court, North Lake, from the Western Australian Planning Commission to the City of Cockburn. The legal process for this to occur is still progressing.

The Lakeside Baptist Church has relinquished a portion of Lot 393 from their lease. There is an area of approximately 3.75 hectares available for lease. The Reserve is set aside for recreational purposes.

Submission

The owner of the Cockburn Ice Arena has formally approached the City with a request to lease a portion of Lot 393 to relocate the facilities offered at the Cockburn Ice Arena.

Report

The portion of Lot 393 available for lease is set aside for recreational purposes and given its location close and accessible from the freeway, little to no immediate residential population to serve and its area of 3.7 hectares, it is ideally suited for recreational activities that serve a regional or sub-regional catchment population.

With Council to be responsible for the management of this land, it will not be necessary for approval to be received by the Western Australian Planning Commission (WAPC) or Department of Planning and Infrastructure (DPI), as any Lease Agreement with a third party will be



based on arrangements acceptable to Council and the Minister for Lands.

This is a significant advantage to the City as any decisions on the usage of the land will not, in future, involve the time consuming process of having to seek approval from the WAPC or DPI.

In respect to the Local Government Act 1995 for the disposal of land the City has several options. The first option applicable in this case under section 3.58(2)(b) is to tender the land as available for lease. The second alternative under section 3.58(3)(4) is to enter a Private Treaty with an organisation for the lease of the land and in accordance with the requirements of the section through state-wide public notice give details of the property and the arrangements in place including the market value of the land.

Given the strategic nature of the land and that there may well be a number of organisations with an interest and capacity to provide a regional recreation facility on the site it is recommended that the lease of the land be advertised for public tender. It is proposed that the following Qualitative Criteria be used to evaluate tenders.

- Recreational and leisure value of the proposal to the region 40%
- Financial capacity to undertake the development within a specified timeframe 30%
- Capacity of tenderer to operate the facility 30%

Strategic Plan/Policy Implications

“To facilitate and provide an optimum range of community services.”

“To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.”

Budget/Financial Implications

There may be some income generated from the lease of the land. As the land is Crown Reserve for recreational purposes it is argued that the criteria for evaluating tender submissions should be based on their recreational value rather than income potential to the City. Therefore, it is recommended that only the rates equivalent be charged as a Lease fee for the property.

Legal Implications

The Local Government Act (1995) has specific requirements for the disposal of land which includes the leasing of land.



Community Consultation

The proposed tender process addresses the question of community consultation, as there will be a public notice calling for tenders.

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

Nil.

17.4 **(MINUTE NO 2356) (OCM 16/03/2004) - CAROB TREE KIOSK MANNING PARK (2207525) (RA)**

RECOMMENDATION

That Council:-

- (1) advise the Azelia Ley Museum Management Committee that it intends to remove the carriages and extensions that make up the Carob Tree Kiosk and tender the site for a mobile food van;
- (2) advertise for public tender of the site currently occupied by the Carob Tree Kiosk for a food van in accordance with the tendering requirements of the Local Government Act, 1995; and
- (3) draw the sum of up to \$7,000 from Account No.8180 (Museum Facilities Maintenance) with funds to be reimbursed at the April 2004 budget review for removal of the current facilities.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that Council:

- (1) advise the Historical Society of Cockburn that it intends to remove the carriages and extensions that make up the Carob Tree Kiosk and tender the site for a mobile food van;
- (2) advertise for public tender of the site currently occupied by the Carob Tree Kiosk for a food van in accordance with the tendering requirements of the Local Government Act, 1995; and
- (3) draw the sum of up to \$7,000 from Account No.8180 (Museum Facilities Maintenance) with funds to be reimbursed at the April 2004 budget review for removal of the current facilities.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0



Explanation

The Historical Society of Cockburn is the Custodian of the Azelia Ley Museum and is the body responsible for the Carob Tree Kiosk. The Museum Management Committee is not involved with this facility.

Background

In 1989 Council located and modified two (2) old railway carriages in Manning Park on a site near the Azelia Ley Museum to serve as a 'character' kiosk. In recent years the Azelia Ley Museum Management Committee have overseen the letting of space to individuals to operate a small business/Community service to users of the park and patrons of the Museum on weekends. There has however been great difficulty in retaining the service due in part to the low turnover and the limited nature of food and drinks that can be provided from the facilities. The facility has been vacant for much of the past 3 or 4 years.

Submission

Representatives of the Azelia Ley Museum Management Committee have approached Council seeking approval to establish a new tenant in the building.

Report

In response to the request from the Azelia Ley Museum Management Committee the City's Principal Environmental Health Officer and Facilities and Plant Manager have inspected the building and found a number of pressing matters that need to be addressed.

To comply with the current Food Hygiene Regulations 1993 and the Food Safety Standards the following matters require remedial action:

1. Removing all benches, shelving and work surfaces made of absorbent materials (ie wood, exposed chip board & melamine core) and replacing with surfaces which are smooth impervious and easily cleanable, constructions and setbacks to be in accordance with regulatory requirements.
2. Removing current wash hand basin and replacing it with a wash hand basin which is
 - (a) of adequate size, (recommended approx 11L capacity, large enough to immerse an arm to the elbow),
 - (b) provided with a piped supply of warm water or of hot and cold water delivered through a common outlet.



3. Providing doors to both entrances into the food premises to as far as practicable exclude flies and other flying insects and other pests (eg rats/mice).
4. The current floor is difficult to keep clean. Consider replacing with a floor, which is smooth, rigid, durable, slip resistant, resistant to corrosion, non-toxic and impervious.
5. Refitting pipes, conduits and wiring so that they are concealed in walls or ceilings or fixed in brackets so that there is a clearance of not less than 16mm between the pipe, conduit or wiring to adjacent surfaces in order to facilitate cleaning and inspection.
6. Mounting refrigerators on wheels or castors capable of supporting them when loaded or on legs or brackets constructed in accordance with clause 12(11) of Schedule 4 of the *Health (Food Hygiene) Regulations 1993*.
7. The premises currently has no mechanical ventilation, therefore deep-frying is prohibited. In order to provide for deep-frying an exhaust canopy constructed in accordance with Australian Standard AS 1668.2-2002 would be required.
8. Should activities requiring significant preparation of fruit and vegetables be considered an additional sink would need to be installed.

The anticipated cost of this work is \$35,000. Even with this significant expenditure the facilities are barely adequate to serve basic food. The 'space' will remain cramped and very limited.

The City of Cockburn has a statutory responsibility to ensure that all food premises in the City meet the requisite Health and Building Standards. By any measure the current facilities at the Carob Tree Kiosk are inadequate.

It is recommended that Council remove the current buildings that make up the Carob Tree Kiosk and offer at tender the use of the site to a mobile food van. Any income generated from the van being transferred to an account for the maintenance of the Azelia Ley Museum.

Discussions have been held with representatives of the Azelia Ley Museum Management Committee who, although disappointed in seeing the old carriages being moved, understand this position.

The anticipated cost of removing the old carriages and cleaning up the site to allow for a food van to be accommodated is \$7,000.



Strategic Plan/Policy Implications

“To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.”

“To facilitate and provide an optimum range of community services.”

Budget/Financial Implications

There will need to be \$35,000 expended upon the current Carob Tree premises to bring them up to a reasonable standard. This expenditure would be of limited value, as it does not address the essential inadequacy of the facilities. To completely replace the facilities would cost well in excess of \$100,000, where approximately \$7,000 will enable the structure to be safely removed.

Legal Implications

N/A

Community Consultation

The proposal for a mobile food van would provide a continuation of the existing service.

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

Nil.

17.5 (MINUTE NO 2357) (OCM 16/03/2004) - REVIEW OF SENIOR CITIZEN'S DROP IN CENTRE (8403) (GB)

RECOMMENDATION

That Council:-

- (1) allocate the sum of \$8,635 per annum in the 2004/05 Municipal Budget for the cost of operating the Civic Centre Lesser Hall as a Senior Citizens Drop in Centre; and
- (2) again review the matter in March 2005.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL



COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr L Goncalves that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

At the Ordinary Council Meeting held on the 17 June 2003 council resolved as follows:-

- (1) *donate the use of the Civic Centre Lesser Hall for one day per week between Monday and Thursday as of 1 August 2003, until such time as a six(6) monthly review of the service is considered by Council, for use as a drop in centre for seniors, on the basis that the volunteers are registered with the City of Cockburn and a risk management plan is developed by the City prior to commencement;*
- (2) *allocate in its 2003/04 budget, the sum of \$3,200 as a donation for the cost of the hire of the Civic Centre Lesser Hall for a Senior Citizens Drop in Centre;*
- (3) *allocate a budget amount of \$1200 for the 2003/2004 financial year for the provision of tea/coffee and biscuits; and*
- (4) *review the use of the Lesser Hall after a six-month trial period on the level and nature of usage in accordance with the criteria established in the report.*

Submission

Based upon the current usage and proposed usage for more special events and outings Clr Oliver advised that the Civic Centre Lesser Hall will only be required for approximately 6 hours per day once per week. In the future Clr Oliver would like Senior Citizen's to pay a membership fee or a donation of \$7.00 per quarter, and that this fee would be put towards the cost of equipment, and special events. Clr Oliver has also requested increased photocopying and advertising in the Cockburn Gazette and the Cockburn Soundings for the Senior Citizen's Centre.

Report

The City has reviewed the data regarding the nature and level of usage for the seniors drop in centre. The Evaluation Criteria included the following matters.



- The number of hours that the Seniors Drop in Centre is operational.
- A register of customers identifying individuals and the number of visits each make to the Centre.
- The cost per customer.
- The customer satisfaction level.

The Senior's Drop In Centre, or "Prime Timer's", has generally been operational from 9.00 a.m. until 12.00 p.m. Apart from a three week break over the Christmas period the centre was open to the public from the 9th of September 2003 until the current time. Due to three special events it has operated from 9.00 a.m. until 2.30 p.m. It has therefore been operational for a total of 76.5 hours. The hall was booked for 208 hours over this period, and so it was therefore utilised for 37 percent of the available time.

A register has been kept by the volunteers showing 120 individuals attending over the period. Individual attendance has ranged from one occasion up to 20.

On average 29 people attended each week.

As there were 120 individuals who attended over the period and the cost was \$3038.17 the total cost per customer was \$25.30.

The customer satisfaction level was determined by a survey form distributed to attendees. There were 26 survey forms returned. Of these 25 were either satisfied or very satisfied with the service. This equates to a 96 percent customer satisfaction level.

Overall the Senior Citizen's Drop in Centre has been very successful as the pool of volunteers supervised by Clr Oliver have provided a consistent and friendly service to the community. It has therefore been determined that there is justification for this service to continue.

Even though the Centre has been operated by volunteers, staff time has still been required to deal with Occupational, Health and Safety Issues, petty cash, photocopying and promotion of the service. This can continue to be managed within existing staff resources as long as Clr. Oliver continues to supervise the pool of volunteers who then provide this service to the community.

The issue of advertising and photocopying expenses has also arisen over the period. It is therefore recommended that a further \$1500 per annum be allocated for photocopying expenses and advertising costs for the Senior's Drop in Centre.



It has also become apparent that the current need is for the service to be available from at most 9.00 a.m. until 3.00 p.m. once per week. However, taking into consideration the proposal to increase the number of special events it is therefore recommended that the Council donate the use of the Civic Centre lesser hall for 6 hours per week.

Hourly Rate for lesser hall	Number of hours per week	Number of weeks	Total Donation for hall hire
\$13.20	6	52	\$4118.40

As the Civic Centre lesser hall has an hourly charge of \$13.20 per hour, the donation for the hall hire will equate to \$4,119 for a 12 month period.

It is also recommended that the Council allocate \$2.00 per person for the provision of tea/coffee and as there was an average of 29 people attending the centre each week this therefore amounts to \$3,016.00 per annum.

Strategic Plan/Policy Implications

To facilitate and provide an optimum range of community services.

Budget/Financial Implications

Allocation of annual donation of \$4,119 per annum for the hire of the Civic Centre Lesser Hall, and \$3,016 per annum for consumables for the Senior's Drop In Centre, with \$1,500 allocated per annum for photocopying and advertising expenses.

Legal Implications

N/A

Community Consultation

Survey was distributed to individuals attending the Senior's Drop In Centre.

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

There are several other seniors centres and services operating in the area such as the Cockburn Senior Citizens, Young Place, Hamilton Hill, the Seniors Centre operating from St. Jerome's Church and the Pensioners League, Hamilton Hill. Council donated \$6,901 in 2003/04 to the Cockburn Senior Citizens Centre for the operation and maintenance of the building in Young Place, Hamilton Hill.



18. EXECUTIVE DIVISION ISSUES

18.1 (MINUTE NO 2358) (OCM 16/03/2004) - APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER (2801) (RWB)

RECOMMENDATION

That Council appoints Mr Don Green, Director – Community Services, as Acting Chief Executive Officer for the period 2-8 April 2004 inclusive, during which period the Chief Executive Officer will be absent on leave.

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr A Edwards that the recommendation be adopted.

CARRIED 8/0

Background

In 2001, Council delegated authority to the Chief Executive Officer (CEO) to appoint an Acting CEO or other Senior Employees (Directors) during periods of extended absence by those officers.

During 2003, Council indicated a desire to revoke the delegation in favour of a Policy which would enable Council to appoint staff to these positions on a rotational basis.

Legal advice was sought on the proposition, mainly on the basis of potential contractual obligations which may exist. The subsequent advice received indicated that, contractual obligations aside, the appointment of staff to acting positions other than the CEO is not within the ambit of Council, as this is a function of the CEO to perform.

This information was conveyed in a report to the Delegated Authorities, Policies and Position Statements (DAPPS) Committee in November 2003. In addition, the report mentioned that the matter of appointing the Acting CEO in future, would in the first instance, be a matter for negotiation between the CEO and the Director, Community Services in order to relinquish any existing contractual obligations resulting from the original appointment of the incumbent to that position (then titled Deputy City Manager/Town Clerk), subsequent cosmetic title changes and employment conditions re-negotiated since that time. It was reported that this negotiation process should take place in March 2004, following the return of the CEO from annual leave.



The following DAPPS Committee recommendation was consequently adopted by Council at its Ordinary Council Meeting of December 2003:-

“That Council:-

- (1) revoke Delegated Authority LGA ES1 as attached to the Agenda;
- (2) note the intention of the Chief Executive Officer and Director Community Services, to facilitate an agreement which will allow for Council to rotate the appointment of an officer to act in the position of Chief Executive Officer during formalised periods of absence by the CEO; and
- (3) require the Chief Executive Officer to present to Council for consideration, a proposal detailing how future appointments as Acting Chief Executive Officer would be facilitated through a policy which will provide for Council to appoint a Director to the Acting CEO position for shared periods of time.”

Submission

N/A

Report

The Chief Executive Officer will be on leave for the period Friday 2 April to Thursday 8 April inclusive.

As the previous authority delegated to the CEO to appoint a replacement to act in this capacity during periods of extended absence has been revoked, it is now necessary for Council to appoint an Acting CEO for the period during which the CEO will be absent on this occasion (2-8 April 2004).

As the agreement between the CEO and Director Community Services, mentioned in Council’s December 2003 decision, has not yet been determined, it is suggested that Council maintain the status quo for the short period of relief required on this occasion (10 days), pending the formalising of the arrangement as noted by Council.

Upon such arrangements being completed, a Draft Policy will be developed and presented to the DAPPS Committee for consideration, in accordance with Council’s resolution.

Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.



Budget/Financial Implications

Relevant higher duties allowances are factored into Council's salaries budget each year.

Legal Implications

Contractual obligations may exist which can be overcome by the approach contained in the December 2003 Council decision.

Community Consultation

N/A

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

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

Nil

22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Nil

23. CONFIDENTIAL BUSINESS

Nil



24. **(MINUTE NO 2359) (OCM 16/03/2004) - 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:-

- (a) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) 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
- (c) managed efficiently and effectively.

COUNCIL DECISION

MOVED C/r L Goncalves SECONDED C/r M Reeve-Fowkes that the recommendation be adopted.

CARRIED 8/0

25 **(OCM 16/03/2004) - CLOSURE OF MEETING**

Meeting closed at 9.32pm.

CONFIRMATION OF MINUTES

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

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

