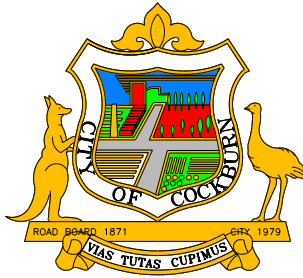


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**THURSDAY, 8 JUNE 2006**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 8 JUNE 2006 AT 7:00 PM

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 8 JUNE 2006 AT 7:00 PM

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**1. DECLARATION OF MEETING**

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

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

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

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

**5. APOLOGIES AND LEAVE OF ABSENCE**

Clr A Tilbury - Leave of Absence

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

Nil

**7. PUBLIC QUESTION TIME**

**8. CONFIRMATION OF MINUTES**

**8.1 (OCM 08/06/2006) - ORDINARY COUNCIL MEETING - 11/05/2006**

**RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Thursday, 11 May 2006, be accepted as a true and accurate record

**COUNCIL DECISION**

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

**10. DEPUTATIONS AND PETITIONS**

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

Nil

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

**13. COUNCIL MATTERS**

**13.1 (OCM 08/06/2006) - MOTION - SPECIAL ELECTORS MEETING, 19 APRIL, 2006 (1713) (DMG)**

**RECOMMENDATION**

That Council notes the recommendation carried at the Special Electors Meeting on 19 April, 2006, in relation to Public Question Time at Ordinary Council meetings.

**COUNCIL DECISION**



## **Background**

At the Special Electors Meeting conducted on 19 April 2006, the following motion was carried:-

- That public question time in Council General Meetings is extended to 45 minutes and residents be allowed to speak without having to submit a written form prior to the meeting.
- That residents may speak on items not on the agenda that they feel should be brought to the attention of Council at a particular meeting.

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

## **Submission**

N/A

## **Report**

The resolution carried at the Special Electors Meeting seeks to amend the protocols and procedures currently applied to Public Question Time (PQT) at Ordinary Meetings of Council.

By law, the procedure for P.Q.T. at Council Meetings is set by the Presiding Member of the meeting, or if the majority of other Council members present at a meeting disagree with the Presiding Member, by the majority of those members then present at the meeting.

It is not legally possible for a Council decision to be made which over rules these circumstances.

Accordingly, as it is not possible for a Council resolution to have any effect on this matter, it is recommended that the resolution carried at the Special Electors Meeting be noted.

Elected members are able to consult with each other to suggest any changes to the current processes, which may be informally agreed to by way of a consensus among members.

## **Strategic Plan/Policy Implications**

Managing Your City:

*To deliver services and to manage resources in a way that is cost effective without compromising quality.*

**Budget/Financial Implications**

N/A

**Legal Implications**

- Regulation 7 of the Local Government (Administration) Regulations, 1996 refers.
- Sec 5.33 of the Local Government Act, 1995, refers.

**Community Consultation**

N/A

**Attachment(s)**

Nil

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

Proponent of the motion carried at the Electors Meeting has been advised that the matter will be considered at the Council Meeting to be held on 8 June, 2006.

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

Nil

**13.2 (OCM 08/06/2006) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING MINUTES 16 MAY 2006 (1054) (SGC) (ATTACH)**

**RECOMMENDATION**  
That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 16 May 2006, as attached to the Agenda, and adopts the recommendations contained therein.  
  
**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

## **Background**

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 16 May 2006. The minutes of the meeting are required to be presented to Council and its recommendations considered by Council.

## **Submission**

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

## **Report**

The Committee recommendations are now presented for consideration by council and if accepted, are endorsed as the decisions of Council. Any elected member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

## **Strategic Plan/Policy Implications**

Managing Your City:

*To deliver services and to manage resources in a way that is cost effective without compromising quality.*

## **Budget/Financial Implications**

Committee Minutes refer.

## **Legal Implications**

Committee Minutes refer.

## **Community Consultation**

Committee Minutes refer.

## **Attachment(s)**

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 16 May 2006.

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

N/A

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

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM 08/06/2006) - METROPOLITAN REGION SCHEME AMENDMENT NO. 1099/33 - LOTS 1-6 HENDERSON ROAD & LOTS 21-25 LORIMER ROAD, MUNSTER - OWNER: WATER CORPORATION - APPLICANT: WA PLANNING COMMISSION (931099) (MD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) lodge a submission of support to the Western Australian Planning Commission on Metropolitan Region Scheme Amendment No. 1099/33 South West District Omnibus (No. 6) relating to proposal 2 (City of Cockburn) and make the following comments relating to proposal 2:-
  1. It is recommended to the WA Planning Commission that the Bush Forever negotiations and Outline Development Plan be finalised prior to final adoption of the Scheme Amendment. It is requested that the City be consulted in these negotiations.
  2. It is recommended that the lot configuration and location of building envelopes on the Outline Development Plan ensures that residential development is restricted to areas outside of the Kwinana EPP Air Quality buffer, as Council Policy does not support further subdivision within the Air Quality buffer.
  3. It is advised that 2000m<sup>2</sup> building envelopes for each lot should be incorporated into the covenants on title and an Outline Development Plan to ensure that development only occurs within these defined areas to protect remnant vegetation;
  4. The high pressure gas pipeline traverses Lots 1-6 Henderson Road the subject of the MRS amendment should be a consideration in the placement of the building envelopes outside the pipeline buffer.

<b>COUNCIL DECISION</b>
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### Background

ZONING:	MRS:	Public Purposes – Water Authority of WA
	TPS:	“ “ “
LAND USE:	Water Reservoir	
LOT SIZE:	Approximately 2ha each	

### Submission

The proposed amendment to the Metropolitan Region Scheme (MRS) is made by the Western Australian Planning Commission and proposes to transfer Lots 1-6 Henderson Road and Lots 21-25 Lorimer Road, Munster from Public Purposes (Water Supply and Drainage) reservation to the Rural zone.

The subject lots are part of a larger group of lots currently reserved for Water Corporation public purposes and accommodating a water reservoir. After allowing land for potential expansion, and a buffer to proposed urban uses to the north, the subject lots are now considered to be surplus to Water Corporation needs.

The subject lots are, however, part of a nominated Bush Forever site, subject to further negotiation. The agreement of the WAPC to the rezoning of the lots is therefore on the basis of a written commitment by the Water Corporation that it will prepare an Outline Development Plan to guide subdivision and development, which recognises and protects the bushland values of the site.

This should include either ceding of land for conservation as part of any subsequent local town planning scheme rezoning or the creation of large bush blocks consistent with the recently released *Statement of Planning Policy No. 2.8 Bushland Policy* for the Perth Metropolitan Region, in particular policy measures 5.2.4 (i) and (ii) and Schedule 2.

This proposal is part of a larger omnibus amendment to the MRS, however, the other proposed amendments within the omnibus amendment do not have a direct impact on the City of Cockburn.

Refer proposed MRS zoning map contained with the Agenda attachments.

## **Report**

### Planning Comments

Council's Rural Subdivision Policy states that Council will not support further subdivision of land within the Kwinana EPP Air Quality buffer.

Given this, it is recommended that Council request to be consulted in the Bush Forever negotiations and preparation of the Outline Development Plan, to ensure that residential development is restricted to building envelopes located outside the Air Quality buffer.

Currently the land is all on the one Certificate of Title, despite each 2 ha lot having its own lot number. However, the land has previously received subdivision approval to create 25 lots of approximately 2 ha each, which the Water Corporation could proceed to obtain Certificates of Title for within 5 years in accordance with the 'Sunset Clause' specified in Section 146 of the Planning and Development Act 2005.

A high pressure gas pipeline traverses the six western-most lots the subject of the amendment. The Outline Development Plan will need to consider the location of the pipeline and ensure the building envelopes are positioned an appropriate distance from the pipeline. The lot the subject of this amendment is within the 300 metre notification zone for the pipeline, which means that any development on the lots will need to be referred to the pipeline owners and the Department of Industry and Resources for comment.

### Environmental Comments

The Water Corporation is required to negotiate with the WAPC to identify Bush Forever boundaries to protect the bushland on the subject lots. The vegetation will be further protected through an Outline Development Plan, which will guide subdivision and development with a view to protecting the bushland.

It is also recommended that 2000m<sup>2</sup> building envelopes be incorporated into the Outline Development Plan with covenants on title to restrict building development to designated areas within the proposed rural lots, to provide further protection to the vegetation.

### Resident Comments

The City has received a letter from a resident living in the area stating some concerns with respect to the proposed MRS rezoning of the lots from Public Purposes to Rural. The concerns relate to the following:

- the rural zoning may have a detrimental impact on the nominated Bush Forever site; and

- over half the land is within the EPP Air Quality buffer and the air quality within this area may not be suitable for future residents.

With respect to point one above, the rezoning of the Public Purpose land to Rural is on the basis of a written commitment by the Water Corporation that it will prepare an Outline Development Plan to guide subdivision and development, which recognises and protects the bushland values of the site. Further, 2000m<sup>2</sup> building envelopes may be incorporated into the Outline Development Plan to restrict building development within a specified area. This approach is considered reasonable and acceptable to the City.

With respect to point two above, there is already a significant presence of houses on rural lots within the EPP Air Quality buffer. The primary reference defining the buffer is the current Kwinana EPP. The EPP relates to air quality; it places no restrictions on land use within the buffer area. It is recommended that the Council be consulted in the preparation of an Outline Development Plan to coordinate subdivision, to ensure the lot configuration and location of building envelopes restricting residential development to outside the buffer.

Further, the Environmental Protection Authority (EPA), in its advice to the WA Planning Commission, did not raise any concerns with respect to the creation of additional rural lots within the EPP Air Quality buffer. The EPA/Department of Environment is the agency responsible for the administration of the policy.

The resident has been advised to make a separate submission to the WA Planning Commission who are responsible for considering public submissions and making a determination on the MRS amendment.

### Conclusion

It is recommended that the Council lodge a submission of support to the WA Planning Commission on Metropolitan Region Scheme Amendment No. 1099/33 South West District Omnibus (No. 6) relating to proposal 2 (City of Cockburn).

If the MRS Amendment is adopted and gazetted the City's Town Planning Scheme zoning will need to be amended for consistency with the MRS. Additional land use and clearing controls can be considered by Council if considered appropriate.

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

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

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 Council Policies which apply to this item are:-

SPD1            BUSHLAND CONSERVATION POLICY

**Budget/Financial Implications**

Nil

**Legal Implications**

Planning and Development Act  
Metropolitan Region Scheme

**Community Consultation**

N/A

**Attachment(s)**

- (1) Site Plan
- (2) Proposed Zoning Map

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

N/A.

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

Nil.

**14.2 (OCM 08/06/2006) - PROPOSED STRUCTURE PLAN - LOT 9 BARFIELD ROAD, HAMMOND PARK - OWNER: M MILLER - APPLICANT: URBANPLAN PLANNING CONSULTANTS (9683) (MD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Lot 9 Barfield Road, Hammond Park subject to the following modifications to the Structure Plan and Report;

- 1. amend the structure plan to depict the residential lots as



- R20 and not R17.5;
2. include zoning map colours on the structure plan to reflect the zoning colours of the City's Town Planning Scheme No. 3 maps and include a legend;
  3. depict the road reserve widths on the structure plan in accordance with the City's requirements;
  4. remove reference to Amendment No. 28 in section 3.2.3 of the structure plan report as Amendment No. 28 is not applicable to the subject land; and
  5. amend the structure plan report to refer to the requirement to pay developer contributions in accordance with Development Contribution Area 3 as specified in Schedule 12 of the City's Town Planning Scheme No. 3.
- (2) upon receipt of a revised Structure Plan compliant with Clause (1) above, forward the Structure Plan documents and schedule of submissions to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning Scheme No 3;
  - (3) adopt the officer comments on the Schedule of Submissions contained in the Agenda attachments for Lot 9 Barfield Road, Hammond Park; and
  - (4) advise those persons who made a submission of Council's decision.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS:	Development Zone Development Area 9 Development Contribution Area 3
LAND USE:	Rural	
LOT SIZE:	1.5703 ha	

## **Submission**

The City received a Structure Plan on 3 March 2006 for Lot 9 Barfield Road, Hammond Park. A locality plan and Structure Plan are shown in the Agenda attachments.

The structure plan proposes 17 single residential (R20) lots and one lot of 1570m<sup>2</sup> for public open space and drainage (POS). It is proposed to accommodate a swale for 1:10 year storm events within the POS.

## **Report**

The proposed structure plan is consistent with the Southern Suburbs District Structure Plan (Stage 1), which identifies the subject land for residential development.

## Community Consultation

The proposed Structure Plan was advertised to surrounding landowners and relevant government agencies and was advertised in two local papers circulating within the locality for a period of 21 days, which closed on 12 May 2006, in accordance with the requirements of the Council's Scheme.

Four submissions were received, all stating no objection to the proposal.

Refer schedule of submissions with the Agenda attachments.

## Modification to Structure Plan

The proponent was requested to make the following modifications to the proposed structure plan as outlined in the recommendation but given these issues were relatively minor and did not alter the intent of the structure plan, it is recommended that the Council add these amendments as a condition to the adoption of the structure plan.

## Conclusion

It is recommended that the Council adopt the structure plan for Lot 9 Barfield Road, Hammond Park, subject to the modifications outlined in the recommendation section of the report, and refer the structure plan to the WA Planning Commission for final consideration.

## **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 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
APD4	Public Open Space
APD28	Public Open Space Credit Calculations

### **Budget/Financial Implications**

Nil

### **Legal Implications**

Planning and Development Act  
Town Planning Scheme

### **Community Consultation**

The application was advertised to surrounding landowners and relevant government agencies and was advertised in two local papers circulating within the locality for a period of 21 days, which closed on 12 May 2006, in accordance with the requirements of the Council's Scheme.

Submissions were received from Western Power, Transperth, Water Corporation and Roberts Day acting on behalf of a landowner, all stating no objections to the proposed structure plan.

Refer schedule of submissions with the Agenda attachments.

**Attachment(s)**

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

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.3 (OCM 08/06/2006) - HOME OCCUPATION - SWIMMING LESSONS (HO637) - LOT 543; 17 WAYLEN SQUARE, BEELIAR - OWNER: A & A DVORAK - APPLICANT: A C DVORAK (3318905) (TW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant its approval to undertake a Home Occupation (Swimming Lessons) on Lot 543; 17 Waylen Square, Beeliar, subject to the following conditions:-

**STANDARD CONDITIONS**

1. The home occupation can only be undertaken in accordance with the terms of the application as approved herein and any approved plans.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the home occupation.
3. The development complying with the Home Occupation provisions and definition set out in the Town Planning Scheme.
4. All materials and/or equipment used in relation to the Home Occupation shall be stored within the residence or an approved outbuilding.
5. The Home Occupation Approval may be withdrawn by the Council upon receipt of substantiated complaints.
6. The Home Occupation can only be undertaken by the owner of the land and is not transferable pursuant to

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

7. On the sale of the property or change in ownership of the land the home occupation entitlement ceases pursuant to clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.

#### SPECIAL CONDITIONS

8. A maximum of 4 clients per lesson in accordance with the applicant's submission with an interval of at least 15 minutes between lessons.
9. The hours of operation are limited to 3.30p.m. to 6p.m. Wednesday, Thursday and Friday and 9a.m. to 11.30a.m. on Saturday, and not at all on Sunday and Public Holidays.
10. The verge area that has been paved is to be re-grassed in accordance with Council policy.
11. All car parking in relation to the Home Occupation is to be contained wholly on the existing driveway and is not to occur on the street and verge area.
12. All pool backwash water is to be disposed of via connection to a 1220mm diameter sedimentation tank and a minimum of one 1400mm by 1500mm (effective depth) soakwell. The applicant is to advise and provide plans to the City's Health Services of the system prior to it's installation.
13. Applicant is to provide an easy access point along the backwash discharge line to allow the City's Environmental Health Officers to obtain a sample of the backwash water when necessary.
14. The pool and associated facilities must be assessed and sampled at least two weeks prior to the opening of the centre by an Environmental Health Officer. Use of the pool will not be permitted until start-up sampling has been conducted and the results are received from the Pathcentre. Please call the City's Environmental Health Services on 9411 3589 to arrange an appointment.

#### FOOTNOTE

1. The applicant is to be advised that the plans for the swimming pool must be approved by the Department of Health WA (Environmental Health Section) before commencement of construction of the swimming pool.

Please contact the Applied Environmental Health Section on 9388 4999 for further details.

2. Home Occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone.

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

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Existing House	
LOT SIZE:	741m <sup>2</sup>	
USE CLASS:	Home Occupation – 'D' discretionary use	

The applicant currently conducts a home office that does not require Council approval as it is exempt from requiring planning approval under clause 8.2.1 of the City of Cockburn's TPS No.3. The business involves the manufacturing of labels. The business is undertaken in the office of the dwelling. The equipment used is a single computer, a cutting machine (700mm wide), bench space and squeegees. A courier company delivers vinyl to the property once a fortnight. The applicant then delivers the finished products direct to the clients approximately once per month.

### **Submission**

The applicant proposes to conduct swimming lessons from a private heat pool that will be installed, at the applicant's property for primarily children with the possibility of adult lessons. The lessons are for no more than 4 children at one time. The intervals between classes will be no less than 15 minutes. The hours of operation will be from 3.30pm to 6.00pm, Wednesday, Thursday and Friday, and from 9.00am to 11.30am Saturday.

The applicant has also paved the Council verge area adjacent to the property without Council permission. The intention was to use the paved area for additional car parking that may be required in relation to the home business. The applicant has been advised that Council must approve any verge treatments prior to development and that car parking on the Council verge in relation to a home business is prohibited.

### **Report**

The application was referred to 8 surrounding landowners for comment. At the close of the submission period one neighbour, situated across the road from the applicant's property, objected to the proposal for the following reasons:

- Commercial operation within a "Residential Zone".
- Vehicle traffic increase.
- Property value and Streetscape.
- Existing facilities provided.
- Potential to increase operating hours.

#### Commercial operation within a "Residential Zone"

The objector believes that the proposal is not appropriate within the "Residential Zone" and that the "semi-commercial" type business should be undertaken in a more appropriate area.

Officer response: The proposal is consistent with the purpose and intent of a home occupation. The small scale of the activity (4 pupils at one time) will not adversely affect the amenity of the residential area.

#### Vehicle traffic increase

The objector suggests that the proposal would result in an increase in traffic noise emitted from the estimated 15 additional vehicles per day entering and leaving the street. The increase in unfamiliar vehicles would also inhibit "neighbourhood watch". Additional vehicles in the street will create further danger for children who play in close proximity to the street.

Officer response: The limitations in class size (4 pupils per lesson) and the interval time of 15 minutes between classes will ensure that only minimal vehicle traffic noise will affect neighbouring properties. The interval time is considered long enough so that no overlap of vehicles will result. In effect only 4 vehicles will be entering and leaving the street at one time.

#### Property value and Streetscape

The objector raises concerns that property values will be affected as the applicant will transform their front yard to resemble a "parking lot" to cater for additional vehicle parking. The objector considers the modifications carried out by the applicant to the verge area to be inconsistent with the rest of the streetscape. It is the objector's view that the changes will detract from the streetscape immensely.

Officer response: A condition of approval can require all car parking to be contained on the applicant's driveway. Another condition of approval should be for the applicant to remove the paving and re-grass the verge area to the satisfaction of the Council. This will discourage people from parking on the verge and make the verge consistent with the remainder of the street.

#### Existing facilities provided

The objector suggests that the services proposed by the applicant are adequately provided for within the City of Cockburn and therefore additional facilities are not required, but the City believes that this is not a relevant consideration for the purposes of determining this proposal.

#### Potential to increase operating hours

The objector believes that if approval is granted then the applicant would have sufficient grounds to increase class sizes at a later stage.



Officer response: If the applicant wanted to expand the business then another application would have to be lodged and assessed on its merits.

### **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."*

The Planning Policies which apply to this item are:-

SPD4	'Liveable Neighbourhoods'
SPD6	Health Act 1911 - Authorisation of Deputies
APD17	Standard Development Conditions and Footnotes
APD33	Town Planning Scheme No. 3 Provisions

### **Budget/Financial Implications**

Nil.

### **Legal Implications**

Town Planning Scheme No. 3.

### **Community Consultation**

The application was advertised in accordance with the scheme provisions. At the close of the advertising period one submission of objection was received.

### **Attachment(s)**

- (1) Location Map.
- (2) Site Map
- (3) Floor Plan
- (4) Letter of Objection.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.4 (OCM 08/06/2006) - TEMPORARY ANCILLARY ACCOMMODATION - LOT 33; 122 MILLS STREET, COOGEE - OWNER/APPLICANT: M BOSCOLO (3309293) (TW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) refuse the application for temporary ancillary accommodation on Lot 33; (122) Mills Street, Coogee for the following reasons:-
  1. The proposed development involves a transportable building of a design, material and colour that is incompatible and out of character with the existing house albeit that the residence is in a state of deterioration, and in need of repair or redevelopment.
  2. Being on a corner lot the proposed development would be highly visible from Beach Road and has the potential to adversely impact on the amenity of the streetscape.
  3. While the applicant contends that the ancillary accommodation is only temporary until reticulated sewerage is available, the Water Corporation Infill Sewerage Program indicates this is unlikely to occur until 2011-12, which suggests that the building is going to be needed for a much longer period, and could become semi-permanent.
- (2) issue a Schedule 6 Notice of Refusal and a Form 2 Notice of Refusal; and
- (3) advise the applicant and Submissioners accordingly.

**COUNCIL DECISION**

## Background

ZONING:	MRS:	Urban Zone
	TPS3:	Residential <b>R20</b>
LAND USE:	Existing House	
LOT SIZE:	819m <sup>2</sup>	
USE CLASS:	Ancillary Accommodation – ‘P’ permitted	

## Submission

The proposal is for a temporary portable building to be placed in the rear section of the applicant's property. The purpose of the building is to house the applicant's visiting relatives, as the predominant dwelling is not large enough to accommodate the visiting family members.

The applicant also owns the neighbouring property (No.120) Mills Street. Both properties are currently not connected to the sewer system. Once the two properties are connected to sewer then they have the potential to be subdivided into 3 lots. For this reason the applicant wishes to develop in a temporary inexpensive manner until sewerage is available. Once sewerage is available the applicant intends to develop the property.

## Report

The application was referred to the following surrounding landowners for comment: 15, 17, 19 & 20A, Beach Road. One neighbour, situated across the road from the applicant's property, objected to the proposal because in the neighbour's opinion the proposal is "totally devoid of character and appeal" and suggests that the structure is inappropriate for the area.

The transportable building is built for its ease of construction and function and is less aesthetically pleasing. The existing dwelling on the property and surrounding dwellings in the area are old and "looking tired".

While the application for ancillary accommodation appears genuine based on family grounds, there would not normally be a problem in granting an approval. In this instance the development involves a transportable building of a design, material and colour that is incompatible and out of character with the existing house. Being on a corner lot the proposed development would be noticeable from Beach Road and could impact on the amenity of the street.

Furthermore, despite the applicant stating that the ancillary accommodation is temporary until reticulated sewerage is available, the City's investigations have revealed that this is unlikely to be the case. The Water Corporation indicated the lot is not likely to be seweraged until 2011-12 under the Infill Sewerage Program at the

earliest, which suggests a degree of permanency with the building. Even if Council limited an approval for 2 years the owner is likely to continually seek approval to extend the approval to coincide with the provision of infill sewerage.

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

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

The Planning Policies which apply to this item are:-

APD17	Standard Development Conditions and Footnotes
APD29	Development Compliance Process
APD32	Residential Design Codes
APD33	Town Planning Scheme No. 3 Provisions

### **Budget/Financial Implications**

Nil.

### **Legal Implications**

Town Planning Scheme No. 3.

### **Community Consultation**

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

### **Attachment(s)**

- (1) Location Plan
- (2) Site Plan
- (3) Objectors comments
- (4) Photographs of the Property
- (5) Photograph of the proposed portable building

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.5 (OCM 08/06/2006) - PROPOSED STORAGE YARD - MACHINERY/EQUIPMENT - 18A-18B PRINSEP ROAD, JANDAKOT - OWNER: V & C D'AMATO - APPLICANT: SEAFRONT SCRAPMETAL AND MACHINERY PTY LTD (5513322) (TW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) refuse to grant its approval to develop the proposed machinery/equipment storage yard at 18A/18B Prinsep Road, Jandakot, for the following reasons:
  - 1. The proposed development is not compatible with the objectives of the “mixed business” zone in the City of Cockburn Town Planning Scheme No. 3.
  - 2. The development is considered to be industrial in nature, and should be located in an industrial zone.
  - 3. The visual and acoustic impacts of the open style storage yard are not compatible with the adjoining and future residential areas and the “mixed business zone”.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal;
- (3) advise the submissioners of Council’s decision accordingly; and
- (4) Issue a 60 day direction pursuant to Section 214(3) of the Planning and Development Act to the owner and occupier of 18A-18B Prinsep Road, Jandakot to remove the unauthorised development and restore the land as nearly as practicable to its condition before the development to the satisfaction of the Director Planning and Development.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban Deferred
	TPS3:	Mixed Business

LAND USE:	Mixed Business
LOT SIZE:	1.036 Ha
USE CLASS:	Storage Yard - A

Following a site inspection of the lot, it was found that Seafront Scrap Metal was operating a storage yard business without planning approval.

A letter was issued on 12 January 2006 giving the owner the ability to lodge a planning application for retrospective planning approval to Council.

A planning application was then submitted to Council for a scrap metal storage yard.

### **Submission**

The proposal is for a scrap metal yard. The proposed development is described as follows:

- Storage of containerised machinery and mixed equipment for resale and shipping.
- Business hours run from 8am to 6pm, Monday to Friday.
- 3 cars and one truck picking up and dropping off items twice daily / 1 semi picking up and dropping off items once weekly.
- 1 permanent & 1 casual worker
- Plan of proposed development shows 2 storage areas for machinery, obsolete equipment, containers and scrap; a storage shed; office; car parking areas and vehicle loading/unloading area.

### **Report**

The application was referred to 4 neighbouring lots on Imlah Court and to 1 property located in the industrial area to the east of the subject site.

4 submissioners objected to the proposed development for the following reasons:

- Impact on residential amenity of properties on Imlah Court by reason of dust, noise generated by the scrap metal storage business.
- Not compatible use with the adjoining residential area.
- Visual impact on streetscape and negative impact on character of area.

Having considered the concerns relating to amenity expressed by the owners of the adjoining residential properties on Imlah Court, it is considered that these concerns are justified. The proposed development is in close proximity to existing houses and compromises the amenity of these properties.

Having regard to the objectives of the "Mixed Business" zone, it is considered that the type of storage being proposed is industrial in nature, which is not a suitable use for the Mixed Business zone.

Due to the fact that the storage yard is open in style, the visual impact of the scrap metal and other related items would be exposed to passers by. This will affect the visual amenity of the streetscape.

### **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."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*

The Planning Policies which apply to this item are:-

APD10	Discretion to Modify Development Standards
APD17	Standard Development Conditions and Footnotes
APD33	Town Planning Scheme No. 3 Provisions

### **Budget/Financial Implications**

Nil

### **Legal Implications**

Town Planning Scheme No. 3.  
Planning and Development Act, 2005.

### **Community Consultation**

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

### **Attachment(s)**

- (1) Location Plan
- (2) Site Plan
- (3) Objectors comments

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

### **14.6 (OCM 08/06/2006) - RETROSPECTIVE APPROVAL TO A GROUPED DWELLING- 9/12 BOYD CRESCENT, HAMILTON HILL - OWNER/APPLICANT: B J EADES (2213725) (VM) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant retrospective approval to a Grouped Dwelling Development on Lot 9/12 Boyd Crescent, Hamilton Hill in accordance with the approved plan subject to the following conditions:-

#### STANDARD CONDITIONS

1. Development can only be undertaken in accordance with the terms of the application as approved herein and any approved plans.
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 wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a 2 metre truncation.
4. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
5. 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.
6. Retaining wall(s) being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.



### SPECIAL CONDITIONS

7. The surface finish of the boundary walls abutting the adjoining lots to be constructed to Council satisfaction.
8. The finished floor level of the ground to be 21.1 as shown on the approved plans as amendments in red.
9. The proposed first floor windows of the ensuite and the toilet and the second floor windows of the kitchen, stairs and the bathroom to be amended as shown in red to the approved plans. The windows to include an obscure fix glass to 1.6 meters above the finished floor level.
10. The building application documentation to the City of Cockburn is to include all necessary engineering design and certification with regards to A.L. Technologies letters of 4<sup>th</sup> and 10<sup>th</sup> February 2003 and Geotechnical Report No.60-7246 dated 23 October 2003. A design engineer of the building to confirm that the footing excavations will be inspected and certified by a Registered Professional Engineer.
11. The common area between the lot and the constructed driveway to be constructed as part of the building works. The area to accommodate a extension of the driveway and a landscaped area as illustrated in red to the approved plans.
12. The plan roof area to include a screen wall to a minimum height of 1.6 metres above the finished floor level as illustrated in red to the approved plans.

### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. In regards to Condition No. 10, the landowner and the applicant are informed that the site is classified as a Class "S" site in accordance with AS2870.1996. Refer A.L. Technologies, letters dated 4<sup>th</sup> and 10<sup>th</sup> February 2003 and to the A.L. Technologies report on Geotechnical Investigation, Project Number 60 – 7246, dated 23 October 2002.

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

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-60
LAND USE:	Residential	
LOT SIZE:	180m <sup>2</sup>	
USE CLASS:	Grouped (R-Code) Dwelling - P	

On 13 November 2003 planning approval was granted for a 3 level single residence within a grouped dwelling site on Strata Lot 9 (No.12) Boyd Crescent, Hamilton Hill.

On 9 May 2006 a retrospective planning approval was granted in order to approve a number of modifications, which were made by the builder without Council permission, to the original approval dated 13 November 2003. One of the conditions of retrospective planning approval was that the first floor sitting area was to remain unenclosed.

The reason for this condition was that if the sitting area were enclosed then the residence would exceed the plot ratio requirements in the Residential Design Codes.

The residence has been constructed with the first floor sitting area being enclosed with byfold doors.

**Submission**

The applicant applied for a second retrospective planning approval. The applicant seeks a variation to the Residential Design Codes to exceed the permitted plot ratio limit by an area of 20m<sup>2</sup>. The applicant submitted a letter dated 17 May 2006 advising of the issue with the current builder. (Refer letter attached)

This application is a result of continued mistakes by the applicant's builder. The applicant has spent a lot of resources resolving the builder's mistakes.

## Report

The allowable floor plot ratio area which has been proportioned between Strata lots is limited to 117m<sup>2</sup> per lot. An increase of 20m<sup>2</sup> is a relatively minor variation in the context of the allowable floor area.

The proposed modification will not have an adverse affect on the amenity of the area, or any effect on neighbouring properties.

The applicant was also required to obtain the other strata owners' permission for this modification to be considered. The neighbouring landowners of the 12 strata lots all provided their consent in writing to the proposed increase in plot ratio. No objections were received.

The only concern raised by this proposal is that it could be construed as being a precedent for over development on nearby lots. However, given that each application must be considered on their merits and that there is no adverse impact on neighbours in terms of overshadowing or loss of privacy, there are no objections to the increase of 20m<sup>2</sup> in plot ratio.

## 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:-

APD10	Discretion to Modify Development Standards
APD17	Standard Development Conditions and Footnotes
APD33	Town Planning Scheme No. 3 Provisions

## Budget/Financial Implications

Nil

## Legal Implications

Town Planning Scheme No. 3

### **Community Consultation**

The applicant has obtained consent from all of the strata owners to the plot ratio variation.

### **Attachment(s)**

- (1) Letter dated 17 May 2006 from applicant.
- (2) First Floor plan.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.7 (OCM 08/06/2006) - FINAL ADOPTION OF PROPOSED SCHEME AMENDMENT NO. 38 - SOUTHWELL, HAMILTON HILL - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (93038) (MD) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) adopt the proposed amendment for final approval as set out in the Agenda attachments subject to the proposed 'Local Road' reserve for the Jamy Place/Fluellen Way link being deleted.
- (2) 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;
- (3) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (4) advise those who made submissions of Council's decision accordingly; and
- (5) amend the Southwell Master Plan to remove reference to the proposed Jamy Place/Fluellen Way road link.

**COUNCIL DECISION****Background**

Council at its meeting held 10 November 2005 resolved to initiate scheme amendment No. 38 to Town Planning Scheme No. 3 for the purpose of advertising.

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

**Submission**

The application has been advertised to the community and referred to relevant government agencies for a period of 42 days. This report seeks Council support to final adoption of Amendment 38.

**Report**

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

The EPA advised that the overall environmental impact of the amendment would not be severe enough to warrant formal assessment under the *Environmental Protection Act*.

The amendment was subsequently advertised seeking public comment in accordance with the Regulations for not less than 42 days.

**Community Consultation**

The City received 20 submissions regarding Amendment No. 38, including submissions from Water Corporation, Western Power, Alinta Gas and the Department of Education and Training. Of these, 11 submissions raised concerns regarding the proposed rezoning amendment.

A number of submissions raised concerns relating to the road links proposed under the Southwell Master Plan. The Council has previously considered the concerns regarding the proposed road links at its November 2005 Council Meeting (Item 14.11, Minute No 3015) in considering the Southwell Master Plan. It is considered that the proposed Jamy Place road link can be deleted given that it is a relatively low priority connection as well as being an expensive connection. The cost of the Jamy Place link was previously estimated

at \$315,000, which represents the approximate amount that the City would be required to provide in excess of the \$1 million that the Council had previously agreed to with the Department of Housing and Works (representing 50% contribution to the revitalisation project). It is recommended that the amendment and Master Plan documents be modified accordingly.

It should also be acknowledged that the proposed Jamy Place road link could be given further consideration at a future point in time should traffic conditions dictate or a change in the desire of local residents.

It is recommended that the other road links proposed under the Master Plan will be low speed and low traffic volume roads that will improve circulation around the primary school to Phoenix Park Shopping Centre and throughout the suburb.

Refer schedule of submissions contained in the Agenda attachments, which addresses the submissions received.

### Conclusion

It is recommended that the Council proceed to adopt Amendment No. 38 and refer it to the WA Planning Commission for final consideration.

### **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 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."*

The Planning Policies which apply to this item are:-

SPD1            BUSHLAND CONSERVATION POLICY  
APD28          PUBLIC OPEN SPACE CREDIT CALCULATIONS  
APD30          ROAD RESERVE AND PAVEMENT STANDARDS

### **Budget/Financial Implications**

Council has signed a Memorandum of Understanding with the Department of Housing and Works for provision of public domain works. The first stage to commence 2006/07 by Dept. of Housing and Works.

### **Legal Implications**

Planning and Development Act, 2005.  
Town Planning Regulations  
Town Planning Scheme No. 3

### **Community Consultation**

Following receipt of advice from the EPA, the amendment was advertised for a 42 day period. The 42 day public consultation period for Amendment 38 concluded on 12 May 2006. At the close of the advertising period, 20 submissions were received.

Refer Schedule of submissions contained in the Agenda attachments.

### **Attachment(s)**

- (1) Site Plan
- (2) Schedule of submissions
- (3) Amendment Map
- (4) Scheme Amendment Document

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

Submissioners have been advised that the matter will be considered at the Council Meeting to be held on 8 June 2006.

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

Nil.

**14.8 (OCM 08/06/2006) - REVISED APPROVAL FOR HOME OCCUPATION - SPANISH DANCE CLASS - LOT 272; 36 MASEFIELD AVENUE, NORTH LAKE - OWNER/APPLICANT: FARIDA RABIH (1105319) (JW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) issue a fresh approval to the Home Occupation – Spanish Dance Class on Lot 272, No 36 Masefield Avenue, North Lake subject to the following conditions:-

**STANDARD CONDITIONS**

1. The development complying with the Home Occupation provisions and definition set out in the Town Planning Scheme.
2. All materials and/or equipment used in relation to the Home Occupation shall be stored within the residence or an approved outbuilding.
3. The Home Occupation Approval may be withdrawn by the Council upon receipt of substantiated complaints.
4. The Home Occupation can only be undertaken by the owner of the land and is not transferable pursuant to clause 5.8.5 (a) (ii) of Town Planning Scheme No 3.
5. On the sale of the property or change in ownership of the land the home occupation entitlement ceases pursuant to clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.

**SPECIAL CONDITIONS**

6. Dance class operating times being limited to:-  
Monday 5:00pm to 8:30pm;  
Tuesday 5:00pm to 8:30pm;  
Wednesday 5:00pm to 8:30pm;  
Thursday 5:00pm to 8:30pm; and  
the dance classes must not be undertaken on Saturday and Sunday and not at all on Public Holidays.
7. A maximum of 12 clients per day with an interval of at least 20 minutes between dance classes with a maximum of 6 clients per class.
8. All client car parking must be on-site and no street parking is permitted on the verge or on Masefield Avenue.



9. Noise levels received at the closest noise sensitive premises, when measured in accordance with the Environmental Protection (Noise) Regulations 1997, shall not exceed the assigned levels as specified in the Regulations.
10. Noise emissions from the premises must not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person.
11. The double-glazing on the windows and the vinyl/foam surface installed in the dance instruction area is to be maintained so as to reduce noise emissions from within the premises.
12. This approval is limited to a period of 12 months only. Following the expiry of this period a fresh approval from Council will be required.

#### FOOTNOTE

1. Means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-
  - (a) does not employ any person not a member of the occupier's household;
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
  - (c) does not occupy an area greater than 20 square metres;
  - (d) does not display a sign exceeding 0.2 square metres;
  - (e) does not involve the retail sale, display or hire of goods of any nature;
  - (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - g) does not involve the use of an essential service of greater capacity than normally required in the zone.
2. Whilst the City does not apply the Health (Public Building)

- Regulations 1992 to single premises where the floor area of the 'public building' is less than 50m<sup>2</sup> or holds less than 25 persons, patron safety remains paramount. Particular attention is required in relation to exit paths, fire safety, lighting and sanitary facilities.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning (inclusive of MRS Approval); and
  - (3) advise the submissioners of Council's decision accordingly.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Residential	
LOT SIZE:	789m <sup>2</sup>	
AREA:	20m <sup>2</sup>	
USE CLASS:	Home Occupation (Discretionary Use)	

Council, at its meeting held on 11 August 2005 conditionally approved a home occupation application - Spanish Dance Class on Lot 272, No.36 Masefield Avenue, North Lake.

According to the approval, a maximum of 8 clients per day with a maximum of 6 clients per class was permitted.

Also, the dance class operating times was limited to:-

Monday 5:00pm to 8:30pm;  
 Tuesday 5:00pm to 8:30pm;  
 Thursday 5:00pm to 8:30pm; and  
 the dance classes must not be undertaken on Saturday and Sunday and not at all on Public Holidays.

Council's approval was limited to a period of 12 months only, and following the expiry of this period, a fresh approval from Council will be required.

## Submission

In March 2006, the applicant submitted an application to change the Council's approval dated 11 August 2005 for the home occupation – Spanish Dance class held at 36 Masefield Avenue, North Lake.

The applicant seeks approval for:

- Extending the maximum number of clients per day from 8 clients to 12 clients, whilst still maintaining the maximum 6 clients per class; and
- Expanding the operating hours from:

Existing Approved Operation Hours	Proposed Operation Hours
Monday 5:00pm – 8:30pm	Monday 5:00pm – 9:00pm
Tuesday 5:00pm – 8:30pm	Tuesday 5:00pm – 9:00pm
Thursday 5:pm – 8:30pm	Wednesday 6:00pm – 9:00pm
Not at all on Saturday, Sunday or Public Holidays	Thursday 5:00pm – 9:00pm
	Saturday 11:00am – 4:00pm
	Public Holidays 11:00am – 4:00pm
	Not at all on Sunday

## Report

Home occupations are a discretionary use under Council's Town Planning Scheme No.3 and as such the application was advertised to surrounding landowners. Eleven (11) landowners were advised of the development application. Three (3) provided no objections, two (2) objected and six (6) did not respond.

The adjoining landowners objecting to the proposal indicated that they are generally happy with the existing operating hours and scale. However, with the increased operating hours and number of clients, this type of activity will not be suitable for a residential area and should be contained within a designated commercial area or community centres/public halls. The adjoining landowners' concerns were conveyed to the applicant.

The applicant subsequently requested to modify her application by advising the following:

- Extending the maximum number of clients per day from 8 clients to 12 clients, whilst still maintaining the maximum 6 clients per class; and
- Extending operation hours by including Wednesday night only, finishing at 8:30pm;

The request to include Saturdays and public holidays has been withdrawn.

The City considers that the revised operation schedule is acceptable given that:

- The applicant has carried out the schedule of works outlined in the acoustic report prepared by Herring Storer Acoustics dated 13 July 2005 as required by Council, and George Watts from Herring Storer Acoustics confirmed that noise attenuation measures are compliant with the Environmental Protection (Noise) Regulations 1997;
- No complaints have been received from the adjoining landowners in regards to the operation since Council granted its conditional approval for the home business on 11 August 2005;
- Council has approved a maximum of 8 clients per day with a maximum of 6 clients per class. A maximum of 12 clients per day will still make this arrangement viable;
- Extending operation hours by including Wednesday night only will not substantially change the nature and scale of the operation;
- All client car parking must be on-site and no street parking is permitted on the verge or on Masefield Avenue; and
- The subject home occupation is subject to stringent compliance with conditions of approval that are intended to ameliorate any adverse impact of the dance classes on the amenity of neighbours.

It is recommended that Council approve the changes to the home occupation application to increase the maximum number of clients per day from 8 to 12 and extend the operation hours to include Wednesday night finishing at 8:30pm.

The approval could also be limited to a period of 12 months to enable Council to review the matter before deciding on an extension of the approval.

### **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:-

APD17 Standard Development Conditions and Footnotes

**Budget/Financial Implications**

Nil

**Legal Implications**

Town Planning Scheme No.3.

**Community Consultation**

14-Day period in which adjoining properties along Masefield Avenue were sent letters requesting comments.

**Attachment(s)**

Location Plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.9 (OCM 08/06/2006) - PROPOSED STRUCTURE PLAN - STAGE 2 OF THE WALK ESTATE - PART LOTS 3, 4, 5 & 6 LYON ROAD, AUBIN GROVE (STAGE 2) - OWNER: BELLCROSS HOLDINGS PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9645B) (MD) (ATTACH)**

<p><b>RECOMMENDATION</b> That Council:</p> <p>(1) receive the report;</p> <p>(2) adopt the Structure Plan for Portion Lots 3, 4, 5 and 6 Lyon Road, Success, subject to the following modifications to the Structure Plan and report, pursuant to clause 6.2.9 of the City of Cockburn Town Planning Scheme No. 3;</p>
--

1. amend the structure plan by recoding the R60 coded laneway lots to the R40 density code;
  2. amend the structure plan to include a service road (CAP) to provide access to those proposed lots that currently have direct frontage to Lyon Road; and
  3. amend the structure plan and report to include reference to the construction of a channelisation and passing lane within the Lyon Road road reserve to provide safe vehicle movements around the main southern entry to the subdivision.
- (3) adopt the officer's comments on the Schedule of Submissions contained in the Agenda attachments and forward those comments requiring consideration to the proponent for information;
- (4) forward a copy of the Structure Plan and Schedule of Submissions to the Western Australian Planning Commission for its endorsement pursuant to clause 6.2.10 of Town Planning Scheme No. 3; and
- (5) advise the applicant and submissioners of Council's decision accordingly.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS:	Development Zone Development Area 11 Portion Development Contribution Area 7
LAND USE:	Rural	
LOT SIZE:	Lot 3: 3.15ha; Lot 4: 3.34ha; Lot 5: 3.46ha; Lot 6: 3.5ha	

Council at its meeting held 17 August 2004 resolved to adopt a Structure Plan for Pt Lots 5, 6, 7 and Lots 25 and 26 Lyon Road (Stage 1) and that the area of land the subject of this report that includes Pt Lots 3, 4, 5 and 6 (Stage 2) be subject to further consideration upon the location of the passenger railway station being confirmed.

The Department for Planning and Infrastructure (DPI) and Public Transport Authority (PTA) are currently reviewing the need for the Mandogalup station, as well as the neighbouring future stations at Success and Anketell. This review is considering expected travel demand, land use potential, rail operational matters and other related issues. The review is intended to resolve if the stations and their respective locations are to become committed for establishment in the future.

To date the review has not concluded, however the review is considering alternative locations for Mandogalup station. At this time DPI has advised that the review of the stations is a high priority and is likely to conclude by around June 2006.

The City has subsequently had meetings with DPI, PTA and the Town of Kwinana and the initial indication from DPI and PTA is that the Mandogalup passenger rail station is unlikely to be required at that location given that the constrained narrow urban corridor is not likely to generate the demand for a passenger rail station at that location.

### **Submission**

The proposed Structure Plan is likely to yield approximately 136 lots initially, with many of the lots having further duplex subdivision potential.

A range of densities from R20 to R60 are proposed. R40 and R60 development is proposed around the rail station and R30 and R40 around the local public open space and abutting the freeway, with a base coding of R20 across the remainder of the site. This will result in a range of lot sizes to promote a variety of housing types.

The Structure Plan for Stage 2 proposes two areas of Public Open Space (POS), being 2850m<sup>2</sup> and 6830m<sup>2</sup> in area. The structure plans for Stage 1, 2 and 3 of The Walk estate provide approximately 2417 m<sup>2</sup> (or 0.78%) in addition to the standard 10% POS requirement, calculated in accordance with Council policy.

The Structure Plan also shows direct road and pedestrian connections to the future Mandogalup passenger rail station (if constructed).

Refer structure plan contained with the Agenda attachments.

### **Report**

#### Southern Suburbs District Structure Plan (SSDSP) Stage 2

The SSDSP Stage 2 shows the Mandogalup passenger rail station being located on the northern side of Rowley Road. SSDSP Stage 2

also shows primarily medium density residential over the subject land with two general located areas of POS.

It is considered that the proposed Structure Plan is generally in accordance with the SSDSP Stage 2 in that it designates two areas of POS and provides for medium density residential development around the potential passenger rail station and public open space.

#### Community Consultation

The structure plan was initially advertised to relevant government agencies and surrounding landowners for a period of 21 days from 11 August to 2 September 2005. Six submissions were received.

A number of significant issues and concerns were raised in the submissions, particularly those issues raised by the PTA relating to design issues associated with the proposed Mandogalup passenger rail station.

The application was put on hold pending the applicant addressing issues raised in the first round of advertising and pending the DPI and PTA making a decision on the future of the Mandogalup station. Given the time that elapsed and the weight and complexity of the issues raised relating to the passenger rail station, the plan was readvertised for a period of 21 days to directly adjoining landowners and government agencies.

Despite there being no definitive answer on the future of the Mandogalup passenger rail station it is necessary for the Council to consider the proposed structure plan given that the statutory obligations specified in clause 6.2.9.1 of the City's Town Planning Scheme No. 3 (which requires the Council to make a determination on a proposed structure plan within 60 days of the latest date specified in the notice or advertisement) has been exceeded due to the time that has elapsed waiting on the DPI and PTA to make a decision on the future of the Mandogalup station.

Refer schedule of submissions contained with the Agenda attachments.

#### Residential Density

It is considered that the proposed structure plan design is sufficiently robust and flexible to accommodate change over time and that the current design can accommodate a passenger rail station, if constructed in the future.

The Southern Suburbs District Structure Plan (Stage 2) proposes medium density residential development for a majority of the land the subject of this structure plan. Medium density residential was on the



basis that a passenger rail station would be constructed at Mandogalup in the future.

Given the uncertainty of a passenger rail station being provided at Mandogalup, it is recommended that the proposed R60 laneway lots be down coded to the R40 density code, to provide for a more appropriate form of development. This will not have an impact on the subdivision layout or design. It is recommended that the two R60 grouped dwelling sites abutting the western most POS can remain, as this will provide for a variety of housing type within the subdivision.

Further, if a passenger rail station is required at Mandogalup in the future, the future of which should be decided by June/July 2006, then the City can proceed to modify the structure plan to increase the densities to that currently shown (i.e. R40 and R60) prior to the sale of the lots to private landowners.

If the Mandogalup passenger rail station is not constructed, residents within The Walk estate will still have access to bus services operating along Lyon Road, which will take passengers to the Cockburn Central Train Station, which will provide residents with access to public transport services to the City and other destinations.

#### Park and Ride Facility

The PTA raised the requirement for approximately 200 car bays to be constructed to service the initially proposed Mandogalup station. However, the City has since met with the PTA and DPI and preliminary advice indicates that a passenger rail station will not likely be constructed at Mandogalup. Given this uncertainty, it is not considered appropriate to require the subdivider to provide land for a park and ride facility within the subdivision or require the subdivider to construct approximately 200 bays.

The structure plan does provide for approximately 95 on-street car bays within the road reserves, however, these bays will mainly provide parking for visitors as well as providing parking for the proposed parks.

#### Conclusion

It is recommended that Council adopt the Structure Plan and refer it to the Western Australian Planning Commission for its endorsement on the following basis:

- the subject land has been zoned for urban development under the Metropolitan Region Scheme and the City's Town Planning Scheme No. 3 and noting that there are no physical or servicing constraints to the development of the land for residential development;
- the structure plan is generally in accordance with Southern Suburbs District Structure Plan (Stage 2);

- it is considered that the DPI and PTA will make a determination in the near future that a station will not be required at Mandogalup; and
- the structure plan design is sufficiently robust to accommodate access and parking to service a station at Mandogalup if required in the future.

### **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
SPD4	Liveable Neighbourhoods'
APD4	Public Open Space
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Planning and Development Act  
Town Planning Scheme

### **Community Consultation**

The Structure Plan was advertised for 21 days from 11 August to 2 September 2005 in accordance with Town Planning Scheme No. 3. An advertisement was placed in two local newspapers advising of the Plan being available for comment. Submissions were received from the

Public Transport Authority, Water Corporation, Department of Environment, Main Roads and Western Power as well as a no objection from one adjoining landowner.

The application was put on hold pending the applicant addressing issues raised in the first round of advertising. Given the time that elapsed and the weight and complexity of the issues raised relating to the passenger rail station, the plan was readvertised for a period of 21 days to directly adjoining landowners and government agencies from 6 April to 27 April 2006. Comments were received from one adjoining landowner (stating no objection) as well as advice from Western Power, Main Roads and the Water Corporation reiterating previous advice sent in the initial round of advertising.

Refer Schedule of submissions contained with the Agenda attachments.

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

- (1) Site Plan;
- (2) Structure Plan;
- (3) Schedule of submissions.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

#### **14.10 (OCM 08/06/2006) - SOUTH BEACH DESIGN GUIDELINES - VARIOUS LOTS WITHIN SOUTH BEACH - OWNER/APPLICANT: LANDCORP (9653) (VM) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) note the South Beach Design Guidelines which are to be used by LandCorp to guide the development of the following lots in the South Beach Development Area:
  - Lot 245 South Beach Promenade, South Beach
  - Lot 483 Enderby Close, South Beach
  - Lot 484 Enderby Close, South Beach
  - Lots 474-482 Enderby Close, South Beach
  - Lot 246 South Beach Promenade, South Beach

- (2) refer the South Beach Design Guidelines to the next DAPPS Committee Meeting for adoption as a generic Position Statement.

## **COUNCIL DECISION**

### **Background**

The importance of the design guidelines in creating an attractive and well-designed development is essential for the creation of a place, which will be of high quality and give distinction to the South Beach locality.

LandCorp advised the City that they are committed to achieving high quality attractive developments, therefore they have prepared design guidelines for new houses.

The South Beach Design Guidelines (Guidelines) will ensure that a consistent high standard of development is maintained.

### **Submission**

LandCorp as part of the objectives of the guidelines has advised that the guidelines were prepared:

- To define the built form and character;
- To establish the external material, colours and finishes palette;
- To create a positive relationship to the streetscape;
- To ensure that roofing is cognisant of the existing character of the location;
- To facilitate a character that is distinct to South Beach;
- To encourage outdoor living all year round;
- To ensure that development is environmentally sustainable; and
- To ensure that landscaping visible from the street contributes to the amenity of the locality.

A generic Position Statement will be prepared and will be referred to the next DAPPS Committee Meeting.

## Report

The guidelines are an initiative of LandCorp, which is consistent with their approach to land development for high quality development outcomes.

In order to facilitate a high standard in built form, landscaping, and environmental sustainability within South Beach, LandCorp have produced the guidelines, which will be given to prospective purchasers as part of a Contract of Sale. The guidelines are additional requirements imposed only by the developers and the existing provisions contained in Council's Town Planning Scheme.

The guidelines are tools to be provided to the developers to ensure an energy, water and resource efficient development design is created.

The purpose of the Guidelines are to ensure that all prospective purchasers of lots identified above in South Beach are informed of and guided by the criteria contained within guidelines and that development assessment is consistent with achieving these desired outcomes.

Prior to submitting plans for approval by Council the applicant is required to submit one set of plans for assessment to LandCorp. LandCorp will ensure that the application is consistent with the adopted guidelines, through a check list process.

The applicant will then be required to submit the approved stamped plans to Council for assessment under the City's Town Planning Scheme. If the applicant seeks a variation to the guidelines the modifications need to be adopted by LandCorp. In case of dispute the current Town Planning Scheme shall prevail.

## Strategic Plan/Policy Implications

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."*

## Budget/Financial Implications

Nil.

## Legal Implications

Town Planning Scheme No. 3.

## Community Consultation

N/A

**Attachment(s)**

Draft Design Guidelines – South Beach.

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

N/A

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

Nil.

**14.11 (OCM 08/06/2006) - RETROSPECTIVE PLANNING APPROVAL - SATELLITE DISH - LOT 459; 53 CINCOTTA LOOP, BEELIAR - OWNER/APPLICANT: C & M RICCIARDI (3318407) (JW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) pursuant to Council Policy SC17, advise the applicant that it is not prepared to overturn the refusal decision for the satellite dish made under delegated authority of Council issued on 9 May 2006 for Lot 459 (No.53) Cincotta Loop, Beeliar for the following reasons:-
  1. The proposal fails to comply with Council's Policy APD14 - Domestic Satellite Dishes Policy.
  2. The proposal will adversely affect the amenity of the neighbouring property because of the visual impact.
- (2) advise the applicant of Council's decision; and
- (3) serve a direction on the owner to remove the unlawful satellite dish within 60 days pursuant to Section 214(3) of the Planning and Development Act 2005. If the owner fails to comply with the direction, this matter must be referred to Council's solicitor.

**COUNCIL DECISION**

## Background

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	Single Dwelling	
LOT SIZE:	0.0623Ha	
AREA:	N/A	
USE CLASS:	Satellite Dish 'Single House'	

The City acting under delegated authority of Council, issued a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal dated 9 May 2006 to a retrospective planning application for a satellite dish on Lot 459 (No.53) Cincotta Loop, Beeliar for the following reasons:

- “1. *The proposal fails to comply with Council's Policy APD 14 - Domestic Satellite Dishes Policy.*
2. *The proposal will adversely affect the amenity of the neighbouring property because of the visual impact.”*

The applicant is not satisfied with this decision and requested the application be referred to the Council for its consideration and determination.

## Submission

The applicant was also advised that if he is aggrieved by this decision, a right of appeal may exist if lodged within 28 days from the date of this decision or alternatively, he can write to the Council requesting reconsideration of his application within 14 days from the date of this decision.

## Submission

A letter was received from the applicant on 23 May 2006 requesting the Council to reconsider a retrospective planning application for an existing satellite dish on Lot 459 (No.53) Cincotta Loop, Beeliar.

The letter states:

*“Can the Council please reconsider the decision to have my satellite dish refused. As the satellite dish is not visible from the street and I have a letter signed by 99% of the landowners surrounding my house that they do not object to the satellite dish being on my roof.”*

A petition was also attached showing 11 adjoining property landowners do not object to the existing satellite dish.

## Report

In January 2006, the applicant submitted an application to seek a retrospective planning approval for an existing satellite dish on the subject property (refer to Attachment 1).

The satellite dish is located at the rear of the property with a 3 metre high pole and 2.4 metre diameter bowl on top of the roof (refer to Attachment 2 & 3 & 4).

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

The application was referred to five (5) adjoining property owners in accordance with Council policy. One (1) letter of objection was received from adjoining landowners, which raised the following concerns: -

- The satellite dish is in full view from the objector's back patio
- The dish could de-value the objector's property; and
- The dish is considered as an eyesore.

The City officers carried out a site inspection to check if the existing satellite dish presents potential visual impact on the adjoining properties. It was found that although the dish is not visible from the street, it is fully visible from the objector's property on 7 Peraldini Court (refer to Attachment 5).

Council's Policy APD 14 – Domestic Satellite Dishes Policy clearly states the following:

*“Dishes should be located such to minimise the visual impact from neighbouring properties; the street or other public areas;*

*Dishes should be erected close to the ground and below the height of fences where practical. If objections from neighbours are received with regards to the potential visual impact, the dish shall not protrude above a fence or screening fixture at all times.”*

The retrospective planning application for the existing satellite dish does not comply with the above requirements.

Before issuing a refusal to the application, it was recommended that the applicant submit a revised plan showing the satellite dish being relocated to the backyard and the height of the pole being lowered to minimise the visual impact on the neighbouring property. The revised plan could be supported subject to no further objection received from the adjoining landowners. The owner from 7 Peraldini Court verbally



indicated that they would be happy with this arrangement. However, the applicant insisted with the current application and did not want to change the location of the satellite dish. A refusal decision was then issued under delegated authority.

The applicant is not satisfied with this refusal decision and wrote to the Council within 14 days from the date of the refusal requesting the Council to reconsider his application.

It is recommended that Council reaffirm the refusal decision for the existing satellite dish on Lot 459 (No.53) Cincotta Loop, Beeliar. The dish does not comply with Council's Policy APD14 and has a visual impact on adjoining neighbours.

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

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

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

APD14 Domestic Satellite Dishes Policy  
 APD17 Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

There could be legal costs associated with defending an application for review with the State Administrative Tribunal ('SAT').

### **Legal Implications**

Planning and Development Act 2005.  
 Town Planning Scheme No.3.

### Community Consultation

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

### Attachment(s)

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

### Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

### 14.12 (OCM 08/06/2006) - EXTENSION OF AREA AND USAGE - PORTION OF LEASE L3102 PUBLIC TRANSPORT AUTHORITY LICENCE TO MOLTONI CORPORATION PTY LTD - DISUSED RAILWAY, WELLARD TO MIGUEL ROAD, BIBRA LAKE (4109346; 4113473; 4413031) (KJS) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) request that the Public Transport Authority ("PTA") amend Lease L3102 to:
  1. Increase the width of the lease area from 3 metres to 10 metres between Wellard Road and Railway Parade, Bibra Lake.
  2. Allow vehicular access within the 10 metre wide easement area.
- (2) on approval from PTA of (1) above, enter into a **licence** with Moltoni Corporation Pty Ltd for a 3 year period for Moltoni to use the 10 metre wide lease area for truck movements associated with the approved landfill of Lot 410 and 451 subject to:
  1. Moltoni using its best endeavours to secure permanent vehicular access in the interim.

2. The Council having the ability to terminate the **licence** following the 1st year **licence** period by giving at least 90 days notice to Moltoni, without any claim for compensation or costs being payable.
  3. The access being constructed to a standard acceptable to the City's Engineer.
  4. Moltoni maintaining the **licence** area in a safe, dust free and secure manner to the satisfaction of the Council.
- (3) comply with provisions of Section 3.58 of the Local Government Act 1995; and
- (4) upon receipt of a 'fresh' application for planning approval, allow access at the point where the lease area connects to Railway Parade.

## COUNCIL DECISION

### Background

The background to this matter is included in the Agenda attachment.

### Submission

Moltoni has written to the City requesting the arrangements set out in items 1 and 2 of the recommendation. Included in the request is an agreement to the proposition from Burgess Rawson (WA) Pty Ltd who are agents for the Public Transport Authority.

### Report

Representatives from Moltoni have endeavoured to comply with Council objectives to establish a safe access point off Miguel Road. The nature of the site and the geometry of Miguel Road has rendered safe access off Miguel Road cost prohibitive.

The alternative as proposed in the recommendation has been brokered between Council officers, Moltoni and Public Transport Authority. The Public Transport Authority have agreed to the amendments to the lease area.

Lease L3102 in its current form is a 3 metre wide strip of the former railway between Bibra Lake and Leonard Way, Spearwood. The allowed use for the lease area is as a recreation trail.

The lease expires 1 October 2006 although Public Transport Authority has written to the City with an offer to extend the lease. The City has not developed the lease area to enhance its use as a recreational trail in the 9 years that it has held the lease.

The rails and sleepers have been removed from and the resulting path has been sufficient for use by the public. There is very little evidence that the public have made use of the route. It is considered therefore that the use by Moltoni of the section between Wellard Road and Railway Parade will not have an adverse impact of the public use of the trail. The total lease length is approximately 4 kilometres whilst the subject **licence** length is approximately 400 metres.

### **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."*

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Section 3.58 of the Local Government Act.

### **Community Consultation**

N/A

### **Attachment(s)**

- (1) Decision from Council Meeting 8 December 2005.
- (2) Letter dated 19 May 2006 from Moltoni Corp Pty Ltd.
- (3) Location Plan.

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

The Proponent has been advised that this matter is to be considered at the 8 June 2006 Council Meeting.

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

Nil.

**14.13 (OCM 08/06/2006) - MOTION - SPECIAL ELECTORS MEETING - 19 APRIL 2006 - INFILL SEWER PROGRAM IN THE SPEARWOOD LOCALITY (4908) (CW)**

**RECOMMENDATION**

That Council:

- (1) note the resolution of the Special Electors meeting of 19 April 2006 passed at the special electors meeting; and
- (2) continue pursuing the provision of infill sewer to the Spearwood locality as per the recommendations adopted at the 13 April 2006 meeting of Council.

**COUNCIL DECISION**

**Background**

A Special Electors Meeting was called for by the residents of Cockburn to discuss several matters including the provision of infill sewerage to areas of Spearwood which are currently provided with onsite effluent disposal systems. The resolution made in regard to this matter was:

*....that \$12.6M be placed on the State Budget for infill sewerage in Spearwood and Hamilton Hill over the next 2 to 3 years.*

**Submission**

N/A

## Report

At its 13 April 2006 meeting, Council resolved to adopt the following recommendation:

*That Council:*

- (1) acknowledge Spearwood as a priority area as reflected in the report for the provision of sewerage as part of the review of the State Government Infill Sewerage Program as previously advised to the Department of Health on 6 February 2006;*
- (2) correspond with the Premier, Minister for Health, Minister for Water Resources and Local State Members seeking support to allocate additional State Government funding to expedite the provision of infill sewerage to unsewered areas of the Cockburn District, particularly the Spearwood area which should be considered as a program priority within the Perth Metropolitan Area;*
- (3) seek a meeting with the Minister for Water Resources to be attended by Mayor Lee and the Chief Executive Officer to discuss the State Government giving greater priority to the provision of sewerage within the Cockburn District, particularly the Spearwood area; and*
- (4) seek the co-operation of the Western Australian Local Government Association to lobby the State Government to allocate more funds for the provision of sewerage in Urban and Industrial Areas under the State Government Infill Sewerage Program.*
- (5) note that the projected tender/commencement date for the project area referred to as Spearwood 16ZZ has been deferred from 2009 to 2011.*

The City has completed all of the actions required to fulfil the requirements of the adopted recommendation. On 23 May 2006, the Mayor and Chief Executive Officer met with John Kobelke, Minister for Water Resources and Sheila Mills, MLC for the Southern Metropolitan Region to discuss additional funding for the provision of sewer to the Spearwood locality.

Since the City is currently vigorously pursuing this route, the motion recommended at the Special Electors Meeting should be noted, however no specific action is warranted.

**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**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

N/A

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

The Proponent(s) has been advised that this matter is to be considered at the Council Meeting of 8 June 2006.

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

Nil.

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

- 15.1 (OCM 08/06/2006) - LIST OF CREDITORS PAID - APRIL 2006 (5605) (KL) (ATTACH)

**RECOMMENDATION**

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

**COUNCIL DECISION**

**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**

Key Result Area *Managing Your City* refers.

**Budget/Financial Implications**

N/A

**Legal Implications**

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

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – April 2006.

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

N/A

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

Nil.



**15.2 (OCM 08/06/2006) - STATEMENT OF FINANCIAL ACTIVITY - APRIL 2006 (5505) (NM) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated documents for the period ended 30 April 2006, as attached to the Agenda

**COUNCIL DECISION**

**Background**

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

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

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

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

**Submission**

N/A

**Report**

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

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

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

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

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

#### Material Variance Threshold

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

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

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

Managing Your City:

*To deliver services and to manage resources in a way that is cost effective without compromising quality.*

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

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

#### **Legal Implications**

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

#### **Community Consultation**

N/A

**Attachment(s)**

Statement of Financial Activity and associated reports for April 2006.

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

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (OCM 08/06/2006) - CONSTRUCTION OF CELL 6 - PURCHASE OF PT LOT 2 ROCKINGHAM ROAD, HENDERSON (4900; 3411237) (ML) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) negotiates with WA Limestone for the acquisition of the 1 hectare portion of Lot 2 Rockingham Road, Henderson adjacent to the landfill as shown on the attached plan, in accordance with the confidential report; and
- (2) delegates to the Chief Executive Officer the authority to conclude any agreement necessary to formalise the matters referred to in Clause (1) above.

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

**COUNCIL DECISION**

**Background**

The background to this item appears in the confidential report prepared by the Director of Engineering and Works and supplied to Elected Members under separate cover.

### **Submission**

See Confidential Report.

### **Report**

See Confidential Report.

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

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost effective without compromising quality."*

### **Budget/Financial Implications**

The purchase of the lot will be funded from the Waste and Recycling Reserve Fund.

### **Legal Implications**

Section 3.59 of the Local Government Act 1995 and Part 3 Regulation 7 of the Local Government (Functions and General Regulations) 1996 define a major land transaction as 'a *transaction with a total value exceeding \$500,000 or 10% of the operating expenditure*'. Regulation 8 of the same Part however would suggest that the proposed land acquisition would be exempt for the purpose of Section 3.59 as the City of Cockburn '*does not intend to sell or to allow any person exclusive use of the land involved in the transaction*'.

Section 5.42(1) of the Local Government Act 1995, applies to sub-recommendation (2).

### **Community Consultation**

N/A

### **Attachment(s)**

Confidential report provided to Elected Members under separate cover.

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

N/A.

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

Nil.

**16.2 (OCM 08/06/2006) - RESERVE 1712 RUSSELL ROAD, WATTLEUP - MINING TENEMENT DISPUTE WITH ROCLA LIMITED (4412065) (ML) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) negotiate with Rocla Limited a royalty payment for the extraction of all sand and limestone from Reserve 1712 Russell Road, Wattleup, within the range contained in the confidential report;
- (2) subject to an agreement being reached regarding the payment of royalties, the City advises the Department of Industry and Resources that it concedes its existing mining tenement over Reserve 1712 Russell Road, Wattleup as a means of resolving the outstanding dispute; and
- (3) delegates to the Chief Executive Officer the authority to conclude any agreement necessary to formalise the matters referred to in Clauses (1) and (2) above.

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

**COUNCIL DECISION**

**Background**

Background to this item has been included in a Confidential Report prepared by the Director of Engineering and Works and supplied to Elected Members under separate cover.

**Submission**

See Confidential Report.

**Report**

See Confidential Report.

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

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

1. Managing Your City  
*To deliver services and to manage resources in a way that is cost effective without compromising quality.*

### **Budget/Financial Implications**

See Confidential Report.

### **Legal Implications**

Advice received from Council's Legal Advisors identifies that the provisions of Sections 3.57, 3.58 and 3.59 of the Local Government Act 1995, and associated regulations do not apply to this item. Section 5.42(1) of the Act, applies to sub-recommendation (3).

### **Community Consultation**

N/A

### **Attachment(s)**

Confidential report provided to Elected Members under separate cover.

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

N/A

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

Nil.

## **16.3 (OCM 08/06/2006) - FOOTPATH - HUSK PARADE, COOGEE (451093) (IS) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) construct the footpath as proposed on the eastern side of Husk Parade, Coogee;
- (2) advise all residents of Husk Parade of Council decision.

**COUNCIL DECISION****Background**

This footpath issue goes back some three years with residents divided regarding the demand for the footpath. The most recent request was received on 19 April 2006 by way of a petition (45 signatures) requesting that the footpath be constructed.

**Submission**

Council surveyed those residents on the eastern side of Husk Parade with the results received being 50% for and 50% against. There is a demonstrated need to provide good pedestrian linkages throughout residential areas and a footpath in this location will assist in achieving that purpose.

**Report**

A survey letter was distributed to those affected residents on 21 April 2006 seeking feedback on the proposal. Of the 10 properties surveyed, 7 responses were received as demonstrated by the plan attached. Objections raised by residents largely related to the loss of verge grass that has been lovingly tended over the years as well as the general amenity and security issues.

Officers confirm that the verge areas are maintained to a high standard. The verge area is 5 metres wide with minor plantings likely to be affected by the works. However Husk Parade provides an important pedestrian link between King Street and Duchart Avenue for the Coogee area. Consequently, the construction of the footpath is recommended to improve permeability within the residential area and to provide safe pedestrian movement. The eastern side of the road is recommended as that is the side that contains the street lights.

**Strategic Plan/Policy Implications**

A Strategic Objective of the City is to construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians.

Footpaths are an essential component of allowing residents to move around the City safely.

**Budget/Financial Implications**

Funds to come from the Trust account for Coogee development funding.

**Legal Implications**

N/A

**Community Consultation**

Survey of residents on the eastern side of Husk Parade Coogee.

**Attachment(s)**

- (1) Site Plan
- (2) Survey Results

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

The organiser of the petition has been advised that the item will be considered by the Council at its 8 June Meeting.

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

Nil

**18. EXECUTIVE DIVISION ISSUES**

Nil

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

Nil

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



**21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**

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

**23. CONFIDENTIAL BUSINESS**

**24. (OCM 08/06/2006) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**

Nil