

CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

FOR

THURSDAY, 10 JULY 2008

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 10 JULY 2008 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, 10 JULY 2008 AT 7:00 PM**

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**
6. **(OCM 10/7/2008) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

A letter has been sent by the Chief Executive Officer to Mrs Robyn Scherr, in response to a question raised during Public Question Time at the 12 June 2008 Ordinary Meeting of Council in relation to Item 13.3 – Final Adoption of the Plan for the District 2008-2018.

Written questions submitted by Mr Philip Eva in relation to Items 14.4 – Proposed Scheme Amendment No.63 to Town Planning Scheme No.3 – and Item 14.5 – Proposed Scheme Amendment No.68 to Town Planning Scheme No.3 to the Ordinary Council Meeting held on 12 June 2008, have been responded to in writing.

7. PUBLIC QUESTION TIME

8. CONFIRMATION OF MINUTES

8.1 (OCM 10/7/2008) - ORDINARY COUNCIL MEETING - 12/06/2008

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Thursday, 12 June 2008, be adopted 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)

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

13. COUNCIL MATTERS

13.1 (OCM 10/7/2008) - REVIEW OF WARD BOUNDARIES AND COUNCILLOR REPRESENTATION (1035) (D GREEN) (ATTACH)

RECOMMENDATION

That Council recommends to the Local Government Advisory Board the making of an Order under Schedule 2.2 (9) of the Local Government Act, 1995, pursuant to Section 2.2 (1) (c) of the Act, to change the boundaries of the existing Central and East Wards as designated on the attachment "3 Wards – Proposed Ward Boundaries".

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

At the Council meeting conducted on 11 January 2007, the following resolution was carried:

- (1) *retain the current Ward boundaries to be effective for the City of Cockburn elections to be held in 2007;*
- (2) *following the 2007 elections, undertake community research to gauge current elector preferences in relation to Ward and Non-Ward systems of elected member representation for the City of Cockburn;*
- (3) *upon receipt of the results of (2) above, conduct a formal review of its Wards and Councillor representation, in accordance with schedule 2.2 of the Local Government Act, 1995; and*
- (4) *ensure the review undertaken pursuant to (3) above is presented to Council, with any recommendations, by no later than 18 July, 2008.*

Subsequent to the Council elections held in October 2007, community research has been undertaken, the results of which indicate a clear

preference for the retention of the current Ward system of representation (see attachment).

The matter was reconsidered by Council at its meeting conducted on 10 April 2008, where it was resolved, as follows:

That Council:

- (1) *gives local public notice advising of a review of its Ward boundaries and Councillor numbers for each Ward;*
- (2) *based on results of the recent community research undertaken, advertises its preferred model as the retention of the current Ward system (ie. West, Central and East) as shown in the attachments to the Agenda; and*
- (3) *invites submissions from the public in respect of the review for a period closing 6 June 2008.*

As a result of this latest Council decision, the matter has been widely advertised and public comment and submissions invited.

Submission

To amend the current Ward Boundaries by including the suburbs of North Lake and Bibra Lake (east of North lake Road) into Central Ward from East Ward.

Report

Following the October 2007, local government elections, correspondence was received from the Local Government Advisory Board re-affirming the requirements of the Local Government Act, 1995, in relation to the statutory provisions regarding a review of the current Ward structure and Councillor numbers.

The Board's assessment of Council's current structure is portrayed as follows:

Ward	No. of Clrs	No. of Electors	Ward Ratio Average	% Ratio Deviation
Central	3	14,299	4,743	11.93
East	3	20,539	6,846	-21.00
West	3	16,156	5,385	4.82
Total	9	50,924	5,658	

To ensure that any changes can be implemented in time for the 2009 local government elections, any review must be submitted to the Board by 31 December 2008.

It is therefore recommended that this process be dealt with in accordance with the timeframe committed to in Council's January 2007, decision (ie. by July 2008) to enable the Board's requirements to be satisfied.

The attached proposed option has been promoted in Council publications as a means of soliciting public comment on this and other alternatives for Council's consideration, which is required as part of the full report following the close of the submission period. This report will also consider other factors such as financial, physical/topographical features and community of interest issues in addition to the demographic make-up of the District, as required by the Act.

At the close of the public submission period, no comment has been received.

Consideration factors relevant to the proposal:

1. Community of Interest

(a) *West Ward:*

The West Ward is recommended to retain the same external boundaries as is currently the case, to include the suburbs of Hamilton Hill, Spearwood, Coogee and North Coogee. The most significant development which has occurred since the current Ward was established is the coastal developments located in the recently established suburb of North Coogee, which essentially caters for the residential development to be completed over the next 5 years in the locations known as South Beach and Port Coogee and to be complemented by an ambitious mixed use development being initiated by the State Government, to be branded as the *Cockburn Coast*. As these more recent developments are to occur on or adjacent to the coastline, it is logical that they be included in the West Ward and these developments will continue to share the community of interest with the already established suburbs. This is demonstrated by the upgrading of Council provided community facilities, such as Hamilton Hill Memorial Hall and Beale Park and the refurbishment plan for the major shopping facilities in the Ward, being Phoenix Park Shopping Centre. Additional retail activities will also be located within the newly developed coastal precincts as demand requires, together with identified community facilities to be established on land provided within these areas for public purposes.

(b) *Central Ward*

The suburbs which comprise the proposed Central Ward in the new structure are complemented by the addition of North Lake and that part of Bibra Lake, east of North Lake Road. The community of interest factor is enhanced in this regard as

both of these suburbs share significant wetland areas within the Beeliar Regional Park. Apart from this, the most discernable development affecting Central Ward is the creation of the *Latitude 32* development, which essentially provides for the industrialisation of the Wattleup townsite and its environs as an extension of the Kwinana Industry Hub. Otherwise, urban development has continued in the areas zoned for residential purposes, primarily Yangebup, Beeliar and Bibra Lake (St Paul's) and industrial and commercial development continues to grow rapidly in the suburbs of Bibra Lake and Henderson within the appropriately zoned areas. A significant new community centre has been established in Beeliar, to cater for new residents to the suburb and neighbouring Yangebup, along with primary schools in recent years. Some rural pursuits continue in the southern part of the Ward, particularly Munster, Wattleup and the southern portion of Beeliar. Central Ward residents do not boast a large variety of shopping and business facilities, but are ideally located to choose between those which exist on either side of them in the East or West Wards. However, it is environmental issues associated with land use in the District (wetlands, industrial land) which are essentially the matters which form the most evident community of interest for residents of Central Ward.

(c) *East Ward*

Not surprisingly, East Ward suburbs are related by being the most recent addition to the residential housing stock in Cockburn. This is now further evidenced by the proposed removal of the suburbs of North Lake and Bibra Lake, which started the urbanisation of the area in the 1980's, from East Ward and annexing it to Central Ward. The principal community of interest shifts south under the proposed restructure to focus on both new urban developments in Atwell, Aubin Gove, Success and Hammond Park, as well as the development of Cockburn Central and adjacent land as the District's premier commercial and community facility precinct. However, it will definitely be the East Ward community that will have the most convenient access to these facilities because of their close proximity.

Adjoining the rapidly developing residential areas, Jandakot and Banjup remain predominantly rural and semi-rural lifestyles, except for a small section of Jandakot abutting the Kwinana Freeway which has been developed as a quality *golf course* estate known as *Glen Iris Estate*.

Banjup and Jandakot also contain a number of properties which have been used as quarrying operations in the past,

most of which are now either redundant, rehabilitated or are used, or proposed to be developed, for alternative purposes.

The busy Jandakot Domestic Airport is a relevant factor which impacts most on the East Ward community. Aircraft flight paths and take off/landing patterns are being constantly monitored and adjusted regularly in an effort to share the impact between the adjoining suburbs over time. An Action Group, comprising of concerned residents living near the Airport has been established to address any concerns, in conjunction with Airport management.

Despite the demand for land development in this Ward, the Jandakot Water Mound is a most significant environmental factor in this area.

As the major underground water supply for the South Metropolitan Region of Perth, strict conditions are applied to any approvals involving development over the mound, which spans most of the East Ward and its component suburbs.

East Ward contains all the services and facilities, both public and private, required of its population.

A regional centre has been established at Cockburn Central which will provide a *City Centre* for the residents of East Ward, in particular. The recently completed southern rail link has its busiest transit station located here and will have the adjacent land developed for major mixed purpose uses, including retail, civic and residential purposes. Opposite the site, a major shopping centre has grown at a rate commensurate to the population and provides the full range of conveniences for the surrounding residents to access.

Many community facilities exist in the Ward, most notably the City's premier leisure centre in South Lake. Soon to be completed facilities also include a Youth Centre and Regional Sporting facilities in Success, as well as new community halls in Aubin Grove and Hammond Park.

Major new commercial areas designed for commercial bulk warehouse and showroom development will soon be established in Jandakot.

A new high school has recently been opened in Atwell to cater for the catchment area, which primarily comprises East Ward residents.

On balance, it is considered the proposed structure can be justified when measured against the criterion of Community of Interest which have been identified in each of the three proposed Wards.

2. Physical and Topographical Features

The major physical feature of the proposed Ward boundaries is that they are aligned with suburb boundaries. This has been consciously done in response to past surveys which identified electors' preference for their entire suburb to be included in an identifiable Ward and not divided between one or more Wards.

The major road links in the District, being the Kwinana Freeway (north-south) and Beeliar/Armadale Roads (east-west) are aligned with the boundaries of the suburbs through which they traverse

In addition, it is noted that the wetlands chain within the Beeliar Regional Park is now situated entirely in the Central Ward under this proposal.

3. Demographic Trends

The demographics of Cockburn are reasonable easy to identify at this stage. The more established suburbs of Spearwood, Hamilton Hill, Coogee and Coolbellup are typically occupied by mature couples with adult off-spring. The next apparent demographic level is that comprising middle-aged couples who have bought/built in the area in suburbs such as North Lake, Bibra Lake, South Lake, Leeming, Yangebup and Munster in the 1980's. Typically, this population have grown up children who are generally self-sufficient, but may still live with their parents.

The next noticeable demographic trend appears in the more recently developed residential areas where young couples and families are choosing to reside. The suburbs of Atwell, Beeliar and Success are the best examples of this with young couples more recently acquiring property in the new suburbs of Aubin Grove and Hammond Park.

The final demographic trend likely to develop in the District over the next decade will be people interested in the top end of the property market. These people are likely to acquire and reside in high class residential developments being established in North Coogee and Cockburn Central which will accommodate up to 15,000 extra residents over time. It is likely that as the District continues its urban development trend, more younger people will tend to inhabit the District.

Consequently, this is likely to see a corresponding ageing of the population in the established areas as this development occurs.

The primary significance of this tendency is that the elector base is likely to develop a noticeable trend to the East and West Wards as a result of children maturing to adulthood and seeking their own housing opportunities, in addition to a 'new breed' of residents choosing to invest in Cockburn for lifestyle reasons.

The proposed three Ward structure properly accommodates these occurrences and is reflected by the need to make only minor amendments to the current structure which has served the City for the past 8 years.

4. Economic Factors

There has been a significant shift in the distribution of the rate base during the development of the District over the past 8 years. This is demonstrated by the following tables:

	West		Central		East	
	2000	2008	2000	2008	2000	2008
% of rate revenue collected	33%	25%	31%	39%	36%	36%
No. of rateable properties	35%	29%	32%	35%	33%	36%
% of assessment per land use – residential	36%	31%	31%	34%	33%	35%
Commercial/Industrial	26%	15%	59%	58%	15%	27%
Rural Resource	Nil	Nil	48%	33%	52%	67%

What these figures tend to most readily identify is the significant shift in rate reliance from the traditional suburbs (West Ward) to the newly developing areas of the City.

This trend has also been identified in the demographics of the district, when comparisons between Wards is made. However, with development levels over the next 5-10 years expected to be mainly in North Coogee (West Ward) and Aubin Grove and Hammond Park (East Ward) these figures will tend to equalise over the period prior to the next review. This will be particularly noticeable in the current differential between West and Central Wards. However, it is proposed to monitor these trends on a biennial basis to ensure that any inequities can be managed in line with the electoral timeframes, if necessary.

5. Ratio of Councillors to Electors

A comparison of the current Councillor/Elector ratio illustrates an inequity in number as a result of greater than expected growth rates in the East Ward over recent years.

Accordingly, it is suggested that Council recommends a modification to its current structure which equalises the ratio.

This can be effected by simply relocating the suburb of North Lake and that part of Bibra Lake (east of North Lake Road) from East Ward to Central Ward. This will provide the Central Ward with the majority of the elector base, but not to the extent that it will unduly impact on the ratio criteria, which should be as equally distributed as possible between the three Wards. The proposal, as suggested, is illustrated as follows:

Ward	No. of Clrs	No. of Electors	Ward Ratio Average	% Ratio Deviation
Central	3	18,278	1:6,093	-7.53
East	3	16,520	1:5,507	+2.81
West	3	16,196	1:5,399	+4.72
Total	9	50,994	1:5,666	

Strategic Plan/Policy Implications

Governance Excellence

- 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

Schedule 2.2 and Section 2.2 (1) (c) of the Local Government Act, 1995 refer.

Community Consultation

The review of the proposed boundary amendments was advertised by local public notice for a period closing 6 June 2008. No submissions were received.

Attachment(s)

1. Map depicting current Ward Boundaries.
2. Map depicting proposed Ward Boundaries.
3. Extract from Community Research on proposal.
4. Copy of local public notice of proposal.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.2 (OCM 10/7/2008) - DISCUSSION PAPER - COMPULSORY VOTING IN LOCAL GOVERNMENT ELECTIONS (1700) (D GREEN) (ATTACH)**RECOMMENDATION**

That Council advises the Western Australian Local Government Association (WALGA) that:

- (1) it supports the principle of compulsory voting in Local Government Elections, subject to:
 1. The rationalisation of the number of local government authorities in the State, or the introduction of a more efficient service delivery model; and
 2. Increased remuneration for Elected Members to reflect the expectation of increased responsibility and accountability of their roles.being inherent components of necessary considerations; and
- (2) it does not support the introduction of optional preferential voting as an alternative to proportionate preferential voting.

COUNCIL DECISION**Background**

The issue of compulsory voting in Local Government elections has come to the fore following recent changes to the electoral provisions of the Local Government Act 1995 and associated regulations introduced for the 2007 Local Government Elections. Significantly, the first-past-the-post system of voting was changed to preferential voting and proportional preferential voting (PPV).

Prior to the change to PPV, WALGA'S position was to support the continuation of voluntary voting. During Local Government's campaign against the introduction of PPV, its position changed to support compulsory voting under the new system.

Now that PPV has been introduced to the Local Government electoral system WALGA has requested that the issue of compulsory voting be considered afresh.

To facilitate consideration of compulsory voting in Local Government elections, the attached discussion paper has been prepared, which examines the following themes:

- Current electoral arrangements and the situation in other States of Australia
- The possibility of Optional Preferential Voting being introduced
- Arguments in favour of compulsory voting
- Arguments against compulsory voting; and
- Practical considerations

WALGA is seeking responses from all Local Governments on this issue. Once responses have been received, an agenda item will be prepared for Zone consideration during September prior to a final position being reached at the October State Council meeting.

Submission

N/A

Report

The Discussion Paper produced by WALGA provides a balanced view point on the benefits and pitfalls of introducing compulsory voting as part of the electoral process for local government in this State. In this regard it is self-explanatory and this report does not subject the information provided to any scrutiny, as it is acknowledged that the contents of the document are well researched and presented.

However, the necessary discussion which needs to accompany such information should include matters of much greater significance when considering the future sustainability of local government overall.

It is submitted that, in this regard, the simple matter of whether Council elections should be compulsory or not is of lower priority than the sustainability of the sector in the short term.

Local Government Reform:

This presents the perfect opportunity for the more self reliant local governments to issue this message to the State Government in a

manner which sensibly portrays the realities of dealing with the sustainability of delivering local government services into the future. As recently as last month, Council endorsed key WALGA initiatives relative to ensuring that reform in local government in this State is largely self regulated. One of the key components of these initiatives was for the State to contribute \$30M to assist the process to move forward with some degree of priority. However, the recent State budget for 2008/09 did not include any funding for this project, which can only be interpreted as a lack of commitment by the government in supporting this method of proposed reform. Without such commitment, it must be acknowledged that any significant progress on the preferred model of regional service delivery will be delayed. If this is the case, then it is likely that a *do nothing* approach will be adopted by most local governments – a situation that has long been standard for the industry and successive State Governments.

Under these circumstances, it should also be realised that no reform of local government across Australia (of which Western Australia is the only State not to be affected so far) has taken place without the prompting of its State Government.

Therefore, it is suggested that, unless the State Government is committed to lead the process by either promoting amalgamation models which have been prepared in the past, or contribute sufficient resources to enable the *WALGA Journey* model to be commenced in a timely manner, there is little to be gained in promoting a new voting system for local government.

Remuneration of Elected Members:

The other significant factor in the debate on whether compulsory voting should be introduced for local government elections is the remuneration of elected Council officials. If it is considered a benefit that compulsory voting will attract greater public participation in the process by way of voter turnout, it is also more likely to attract a greater number of candidates to seek election to their Council. A further inducement in this regard would be the recompense afforded to Elected Members of local government. The current *allowance* provisions are totally inadequate, given the role and responsibilities of today's Elected Members and the accountability expected of them from both the public and statutory perspective. Therefore, any support for compulsory voting being introduced into local government should be conditional on the remuneration reflecting that which is available to Elected Members in other States which have this form of election.

This outcome could be supported if there was an obvious reduction in the overheads required to sustain local government in this State, whether by a reduced number of local governments or the introduction of a more efficient service delivery model in the short term.

Alternative Voting Methods:

The matter of introducing an *optional preferential voting* model for local government should not be supported, on the basis that it would simply introduce another factor into the process which could cause confusion amongst voters.

Contrary to concerns that the Proportional Preferential Voting (PPV) System introduced for the first time to WA Local Government Elections in 2007 would result in increased ineligible votes being cast, there was, in fact, no noticeable increase in these figures from previous elections. This would suggest that people wishing to participate in local government elections, generally value their vote and follow the instructions carefully.

It is likely that this will be the case no matter which system of voting is introduced, but it would seem more logical and efficient to maintain a system that is consistent and would not involve a more complex counting requirement than which is currently the case, which it seems the *optional* method would introduce.

In addition, the potential for disputes involving the validity/non-validity of votes would increase under the *optional* model, which is another reason for concern.

Overall, it is not considered that the PPV model introduced at the 2007 Elections posed sufficient problems or caused sufficient concerns for it to be replaced by the proposed *optional* model.

Strategic Plan/Policy Implications

Governance Excellence

- 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

Part 4 of the Local Government Act, 1995, and associated Regulations refer.

Community Consultation

N/A

Attachment(s)

WALGA Discussion Paper.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (OCM 10/7/2008) - USE NOT LISTED (ART STUDIO) AND BUILDING EXTENSIONS - LOCATION: LOT 800 (NO. 27) SUSSEX STREET, SPEARWOOD - OWNER: G S HAYNES AND E J MARTIN - APPLICANT: SAM MARTIN DESIGN (2200865) (T WATSON) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant its approval for a Use Not Listed (Art Studio) and building works at Lot 800 (No. 27) Sussex Street, Spearwood, in accordance with the approved plans subject to the following conditions:
1. The art studio can only be undertaken in accordance with the details of the application as approved herein and any approved plans.
 2. No residential use (accommodation) taking place in the building used in association with the art studio.
 3. Nothing in this approval or these conditions shall excuse compliance with all other relevant laws (if applicable) in the commencement and carrying out of the art studio.
 4. The development complying with the Home Business Provisions and Definition as set out in the Town Planning Scheme (with the exception of the greater area (m²)).
 5. All materials and/or equipment used in relation to the art studio shall be stored within the existing residence on-site and the rear building.
 6. No exhibitions taking place on-site in association with the art studio.

7. The stair landing leading to the upper level deck being screened to a height of 1.6 metres, the details in respect of which are to be provided to the City's satisfaction at Building Licence stage.
8. The proposed toilet and shower facility connecting to the existing onsite effluent disposal system. In this regard, the additions are not permitted to encroach into the legislated setbacks required for the 'Onsite Effluent Disposal System'.

FOOTNOTE

1. With respect to condition 2, any intention to use the rear studio building for residential purposes requires development approval under the City's Town Planning Scheme No. 3. In this regard, application will need to be made to the City for determination.
2. In considering any application for future use of the rear studio building for residential purposes, the City will take particular interest in the form of development proposed as it is likely to be for the development of two (2) dwellings on-site. Two (2) dwellings on-site should comply with the requirements of the City's Town Planning Scheme and the R-Codes. This would necessitate amongst matters, the provision of a minimum of four (4) parking bays on-site, two (2) for each dwelling.
3. Any variations to the use of land the subject of this approval may require further development approval. The City should be consulted in this regard prior to the lodgement of an application.
4. All works should comply with the requirements of the Building Code of Australia (BCA), whilst a Building Licence should be obtained for the works.
5. A home business is defined in Town Planning Scheme No. 3 as:

"a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

 - (a) *does not employ more than 2 people not members 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 50 square*

- metres;*
- (d) does not involve the retail sale, display or hire of goods of any nature;*
 - (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
 - (f) does not involve the use of an essential service of greater capacity than normally required in the zone.*

COUNCIL DECISION

Background

The subject land is currently occupied by a single residence and a large building in the rear yard. As advised by the applicant, the owners (who are both artists) purchased 27 Sussex Street five (5) years ago. Given their careers, one of the attractions of the property was the building in the rear yard. The building was originally used as a potato packing shed, but seen as ideal for an artist/s studio.

Subsequent to purchasing the site, the owners have used the rear building for the purposes of an art studio. Based on the support of adjoining property owners for the subject proposal, it is apparent the use of the building has occurred without impact on the amenity of the locality. Similar support, however, was not sufficient in the owners bid to use the site for exhibition purposes (in addition to the studio use).

In November 2003, an application to use the site once a year for exhibition purposes was refused by the City. The proposal involved a one-off annual exhibition, attracting approximately 100 persons to the site across a three (3) day period (Friday to Sunday). Despite the support of adjoining property owners, the application was refused on grounds relating traffic, parking and potential for impact on the locality.

Submission

Application has been made to:

- Use the existing rear building on-site for the purposes of a art studio (Use Not Listed); and
- To extend the existing rear building to provide for additional studio space, art storage and a toilet.

The additional floor area amounts to approximately 67 square metres. The plans also detail an upper level deck, to be constructed at the rear of the existing dwelling on-site.

As stated by the applicant in respect of the additional floor space (and on-going use for the purposes of an art studio):

- *“George Haynes and Jane Martin have been painting pictures full-time at 27 Sussex Street, Spearwood since they moved there roughly 5 years ago.*
- *The work they do has absolutely no adverse impact on surrounding property as it is silent, produces no noise, dust ... etc.*
- *There are no regular deliveries to the house as they go to purchase ... necessary materials, canvas, paint etc at the relevant shop.*
- *They have been using the shed for a studio since they moved in 5 years ago; it originally was a potato packing shed, which would account for why it is roughly 160sq.m in floor area. Although it is quite a large shed, Jane requires an extension to her work space as it is a bit small to stand back and view ... paintings properly. They also have a shortage of storage space and require a toilet”.*

Report

The use of the rear building for the purposes of an art studio (Use Not Listed), including the additional floor space proposed by this application, essentially validates what is currently taking place on-site.

Concerned the extensions may be for alternative purposes, namely residential accommodation, an inspection of the premises was undertaken. The inspection revealed the use of the site for art studio purposes only, and confirmed the need for additional floor area.

As proposed, the art studio is supported for the following reasons:

1. The painting of art on-site for sale elsewhere is considered an unobtrusive activity.
2. The use occupies an existing (larger) building on-site, formerly used in association with intensive agricultural purposes. The design of the building is ideally suited to studio purposes.

3. With the exception of the area used, the use complies with the scheme requirements for a home based business activity (Home Occupation and/or Home Business).
4. The use and additions are supported by adjoining property owners.

With respect to the final point above, the applicant has provided written support for the application by all adjoining property owners. The owners (four (4) in total) all have property immediately adjacent to the rear building on 27 Sussex Street. Bearing this in mind, and based on the Scheme provision 9.4.2, separate consultation is not seen as necessary (and has not taken place). It should be noted that a Use Not Listed typically requires consultation to take place (provision 9.4.2 making this discretionary).

Subject to several conditions, therefore, it is recommended that Council approve the application as presented. This includes the rear deck to the existing dwelling (subject to the stair landing serving the deck being suitably screened).

Strategic Plan/Policy Implications

Demographic Planning

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

Budget/Financial Implications

In the event that an application for review to the State Administrative Tribunal arises in respect of any of the conditions proposed to be imposed on the approval, there may be a cost borne by the City.

Legal Implications

Town Planning Scheme No. 3
Planning and Development Act 2005

Community Consultation

Adjoining owners with property immediately adjacent to the rear building have provided their written support for the proposal.

Attachment(s)

- (1) Location Plan;
- (2) Development Plans and Elevations;
- (3) Applicant submission.

Advice to Proponent(s)/Submissioners

The Proponent(s) has been advised that this matter is to be considered at its 10 July 2008 meeting

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

Nil

14.2 (OCM 10/7/2008) - PUBLIC OPEN SPACE REQUIREMENTS - LOCATION: LOT 41 FRANKLAND AVENUE AND GAEBLER ROAD HAMMOND PARK OWNER: APPLICANT: SPM PROJECT MANAGEMENT (A BLOOD) (9682) (ATTACH)

RECOMMENDATION

That Council:-

- (1) advise SPM Project Marketing as follows;
 1. Public open space in respect to Lot 41 Frankland Avenue should be calculated in accordance with Element 4 of the latest version of the Western Australian Planning Commissions Liveable Neighbourhoods.
 2. The designation of Lot 41 as Conservation Zone is supported as it satisfies Councils requirements for the protection and management of the wetland whilst enabling the owners to retain the land
 3. The public open space proposals as outlined in Amendment No. 28 remains acceptable and the City would assist the owners of the subject land to negotiate a satisfactory outcome of the amendment with the Western Australian Planning Commission.
 4. The City raises no objection to the owners of Lot 41 pursuing the proposal for private POS arrangement with the Western Australian Planning Commission that involves excess public open space credits from Lot 41 being used to satisfy the normal 10% POS requirements of other land within the Southern Suburbs District Structure Plan Stage 3 area subject to;
 - (a) The POS for lot 41 and any land to which the excess POS credit is applied being calculated in accordance with the requirements of Element 4 of the Western Australian Planning Commissions Liveable Neighbourhoods.

- (b) The City has no financial responsibility or interest in respect to the arrangement including any short fall in the application of excess credits from Lot 41 to any other parcel of land or any residual unused credit.
 - (c) This being a private arrangement which does not involve the City in any negotiations with or between other owners.
- (2) require Strategic Planning Services to review Policies APD 4 Public Open Space and APD 28 Public Open Space Credit Calculations and align them with Element 4 contained in the Western Australian Planning Commissions Liveable Neighbourhoods.

COUNCIL DECISION

Background

Council at its meeting held on 11 August 2005 resolved to adopt the Southern Suburbs District Structure Plan Stage 3 Hammond Park/Wattleup which included the subject land.

The land is the subject of Amendment No. 28 to TPS No. 3 which was adopted by Council at its meeting held on 11 August 2005.

Council, at its meeting held on 8 November 2007, adopted a Structure Plan for the adjoining land owned by QUBE (Minute No. 3599).

Submission

On 10 March 2007 the City received a submission from SPM Project Marketing on behalf of the owners of Lot 41 Frankland Avenue Hammond Park which provides details in respect to the conservation category wetland located on portion of the land, sets out a proposal for the assessment of the public open space and relevant credits and how they could be applied to a larger area.

Report

The subject land (Lot 41) contains a conservation category wetland which occupies some 1.9697 ha and a 30m buffer of 0.4697 ha. The wetland and buffer comprise 59.8% of Lot 41. The submission includes an environmental assessment of the wetland and buffer prepared by Env Australia Pty Ltd. The report describes the area as a damp land that has vegetation that is in very good condition although there are disturbances at the site and particularly at the edges. The spring survey undertaken by Env confirmed that the site does not support any Declared Rare Flora Taxa.

The environmental values of the site were recognised during the preparation of the Southern Suburbs District Structure Plan Stage 3 Hammond Park/Wattleup. The draft and adopted Structure Plan showed the wetland area on Lot 41 and adjoining Lot 42 to the south as a conservation area as distinct to public open space (see Attachment 1).

Scheme Amendment No. 28 was proposed to assist the implementation of the Southern Suburbs District Structure Plan by proposing a development contribution scheme for the area (DCA 9 & 10). In addition to the normal contributions to Hammond Road and Rowley Roads (Regional Roads), it also proposed owners in the structure plan area provide 9% public open space (POS) and 1% cash in lieu of public open space being levied by the DCA which was to be used to acquire POS where that exceeded the normal 10% requirement.

In respect to the subject land it was assumed that the Planning Commission would agree to a portion of the buffer and the wetland as of public open space and as that exceeded the 10% for the land that the area over and above the agreed credit be purchased from the DCA funds. At this time Amendment No. 28 has not been finalised but Department of Planning and Infrastructure officers have advised that they are unable to find a way to support the cash in lieu proposal as currently outlined in the amendment.

As an alternative to Amendment No. 28, SPM are promoting a private arrangement where by any excess POS credits attributable to lot 41 that are over and above those used to satisfy the 10% POS requirement for lot 41 are able to be applied to other parcels of land and that there be an arrangement that the other owners would reimburse the owners of lot 41 for the credits used. The report by SPM contends that the POS credits should be in respect to both the wetland core and the buffer as set out in Councils Policy APD 28.

Policy APD 28 – Public Open Space Credit Calculations (the Policy) was first adopted by Council in May 2001 and reviewed in September 2002. The Policy reflected the City's strong support of the Western

Australian Planning Commissions Liveable Neighbourhoods (LN) and makes reference to relevant elements and requirements of the Liveable Neighbourhood document that applied at that time. The Policy notes that at the time of preparation there was a lack of guidance from the responsible state agencies on the application of the criteria set out in LN, particularly in respect to the different types of wetlands.

Since that time there have subsequent versions of LN with the latest being adopted by the Commission in October 2007. In regards to Public Open Space and particularly credits there have been a number of changes with the extent of POS credits for various types of wetlands and their buffers now being clearly defined. Consequently Policy APD 28 is no longer aligned with LN and needs to be reviewed. It is proposed that this be presented to a future DAPPS meeting and that the policy be aligned with LN.

Given that the Policy was based on LN, that Southern Suburbs District Structure Plan No. 3 Stage 3 Hammond Park/Wattleup was based on LN and that it is the Planning Commission that is ultimately responsible for approving open space arrangements including credits for wetlands and buffers, it is considered that in determining this matter that the requirements of Liveable Neighbourhoods should be applied rather than Policy APD 28.

The report by Env confirms that the wetland on lot 41 is a conservation category damp land. Element 4 Liveable Neighbourhoods deals with public parkland and specifically deals with conservation category wetlands. The significant requirements (R) of LN Element 4 relevant to lot 41 POS credits are as follows;

- R4 Minimum 10% POS is to be provided with 8% active/passive and 2% restricted.
- R11 Conservation category wetlands shall be ceded to the crown free of cost without payment of compensation by the crown in addition to the 10% POS contribution. The area of the wetland is not included in the gross subdividable area.
- R 30 Full allowance will normally apply to restricted use POS but the WAPC will accept no more than 2% of the 10% contribution being made up of restricted use POS.
- R 33 WAPC may allow the following to be included in restricted use POS, buffers to conservation category wetlands and urban water management measures including swales and detention areas.

The essential differences between LN 3 and the Policy are as follows;

1. Policy APD 28 differentiated between the various types of wetlands but did not deal with the question of its status i.e. conservation category as does LN.
2. Policy APD 28 provided for a 50% credit up to a maximum of 20% of the total POS for both the wetland and the buffer where as LN provides no credit for the wetland and full credit for the buffer so long as it does not exceed 2% of the 10% POS requirement.

The impact of the differences is that LN will result in a slightly less POS credit to the owners of lot 41 for the combined wetland and buffer area. For the City both LN and the Policy will adequately protect the wetland and its buffer. However, for the reasons previously detailed, it is recommended that Council support the application of the POS credit requirements set out in the LN recently adopted by the WAPC to the subject land as opposed to APD 28.

The second issue relating to the subject land relates to the method of applying any excess POS credits for the subject land agreed to by the WAPC. As previously detailed, Amendment No. 28 proposed to levy 1% of the 10% POS requirement as cash in lieu payment under the DCA requirements and use this to purchase any POS in excess of the 10% requirement. This would have included the owners of the subject land.

Since the preparation of the Stage 3 District Structure Plan and Amendment No. 28, the City has initiated Amendment No. 58 to TPS No. 3 which provides the opportunity for wetlands and bush land to be designated Conservation Zone allowing such areas to remain in private ownership but with strict land use and management controls. It is considered that the designation of the subject land as Conservation Zone is entirely appropriate and would satisfy Councils requirements for the protection and management of the wetland whilst enabling the owners to retain the land.

In addition to the Conservation Zone option the following courses of action can be pursued:

1. The owners of the subject land negotiating an acceptable outcome to include appropriate POS provisions in Amendment No. 28 based on the application of LN Requirements.
2. The owners reaching an agreement with the WAPC on the extent and application of POS credits for the subject land, and how they could be applied to a larger area. As suggested in their submission, this would need to be a private arrangement that would need to be supported by the City and the WAPC. This option provides a less certain outcome for the owners as it depends on the willingness of

adjoining owners to consider such arrangement and for there to be a mutually satisfactory agreement.

It is understood that QUBE Property Group which owns adjoining land, has advised SPM Project Management that it may be amenable to such arrangement by reducing one of the parks proposed in their development by up to 5000m². The Structure Plan (Attachments 2 and 3) over the QUBE land contains a number of parks and accordingly it would be acceptable to reduce the overall POS area as proposed subject to the amount of wetland buffer credit used from lot 41 not exceeding the allowable restricted 2% POS of the QUBE land.

In summary it is recommended that Council advise the owners of lot 41 Frankland Road Hammond Park that public open space for the subject land should be calculated in accordance with Element 4 of the recently adopted version of Liveable Neighbourhoods and to outline the options for resolving the POS issues relating to the land outlined in this report. It is also recommended that Council request Strategic Planning Services to review Policies APD 4 Public Open Space and APD 28 Public Open Space Credit Calculations and align them with Element 4 contained in the Western Australian Planning Commissions Liveable Neighbourhoods.

Strategic Plan/Policy Implications

Infrastructure Development

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. Southern Suburbs District Structure Plan Stage 3 Hammond Park/Wattleup.
2. Hammond Park Local Structure Plan.
3. Hammond Park Local Structure Plan (Photographic).

Advice to Proponent(s)/Submissioners

The Proponent(s) have been advised that this matter is to be considered at 10 July 2008 Council Meeting

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

Nil.

14.3 (OCM 10/7/2008) - DETAILED SITE INVESTIGATION - LOCATION: LOTS 95 & 101 HOWSON WAY, BIBRA LAKE - OWNER/APPLICANT: CITY OF COCKBURN (4114403) (K SIM) (ATTACH)

<p>RECOMMENDATION That Council:-</p> <ul style="list-style-type: none">(1) appoint ERM (Environmental Resources Management Australia) to undertake a Detailed Site Investigation over former Landfill site being portion of Lots 95 & 101 Howson Way, Bibra Lake for a fee of \$83,485 plus GST;(2) allocate \$100,000 from the Land Development Reserve Fund 2008/09 for costs associated with (1) above and amend the 2008/09 Budget accordingly; and(3) refer the results of the Detailed Site Investigation to a future Council Meeting. <p>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</p>
--

<p>COUNCIL DECISION</p>

Background

At its meeting held on 22 March 2007 the Strategic Finance and Investment Committee recommended as follows;

- (1) not to accept an offer from PIHA of \$3,100,000 for the purchase of lots 95 and 101 Howson Way and Certificate of Title 1306/642;
- (2) appoint a suitably qualified consultant to provide a Phase 1 assessment of the site to determine consideration of obligations pursuant to the Contamination Sites Act 2003; and
- (3) allocate \$10,000 from the land Development Reserve Fund 2006/07 for costs associated with (2) above.

Council adopted this recommendation at its meeting held on 10 May 2007.

Submission

ERM has submitted a written proposal to undertake the Detailed Site Investigation (DSI).

Report

Following Council's decision of 10 May 2007 OTEK Environmental Engineering undertook a Preliminary Site Investigation (PSI) of the site. The PSI identified a variety of potential contaminants that required further investigation.

The former land fill site occupies approximately 1.9 ha of the total land area of lots 95 and 101 and former railway land which totals 4.9803ha.

One option for the future use of the land is to subdivide the land into 8 industrial lots.

Such a proposal would require application to the Western Australian Planning Commission. A DSI will need to be prepared in accordance with Department of Environment and Conservation Contaminated Sites Managed Series Guidelines.

The ERM proposal includes a Sampling and Analysis Plan to be implemented in the DSI which is expected to satisfy any future review from a site auditor.

The DSI report will establish a detailed understanding of the nature and extent of the impact at the site, assess the risk to human health and / or the environment and provide the City with indicative costs and detail relating the Sites potential redevelopment.

ERM will sink a number of bore holes and also excavate a number of test pits.

Samples tested from these bores and pits will provide the City with assessments on the presence of landfill gas, volatile compounds asbestos, possible groundwater contamination and an accurate depth of the land fill material.

If the contamination status of the site is considered to be a potential risk to human health or the environment, an estimate of cost and indicative details of future investigation, auditor services and/or remedial works relating to the site's potential redevelopment will be outlined.

Following receipt of the PSI report undertaken by OTEK Environmental Engineering, requests for quotes to undertake the DSI were sent to qualified consultants. Although several consultants requested further details only ERM submitted a fee proposal.

It is recommended that Council appoint ERM to undertake the DSI in accordance with their proposal. ERM undertake to have the report finished within 4 months from receipt of written commission.

Strategic Plan/Policy Implications

Governance Excellence

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

Budget/Financial Implications

The detailed site investigation will cost \$83,485 plus GST. Funds for the project should be allocated from the Land Development Reserve Fund.

Legal Implications

Contaminated Site Act 2003.

Community Consultation

N/A

Attachment(s)

Location Plan

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.4 (OCM 10/7/2008) - PROPOSED GARAGE/SHED - LOCATION: 59 HYBRID COURT BANJUP - OWNER: TERRANCE DOWN - APPLICANT: COASTLINE SHEDS (5514347) (B HOGARTH-ANGUS) (ATTACH)**RECOMMENDATION**

That Council:-

- (1) refuse to grant its approval for the proposed outbuilding on 59 Hybrid Court for the following reasons:-
 1. The proposal is non compliant with Council Policy APD 18 (Outbuildings), which states a maximum aggregate floor area of 300m² per rural/resource property.
 2. The City believes it will set an undesirable precedent for future applications in the locality.
 3. The proposal will have a negative impact on the rural amenity and character of the area.
 4. The proposal is contrary to the orderly and proper planning of the rural zone.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal.

COUNCIL DECISION**Background**

Zoning:	MRS:	Rural- Water Protection
	TPS3	Resource Zone
Land Use:		
Lot Size:	2.031 Ha	
Use Class:	"P"	

Submission

The owner has provided the following justification in support of the proposal which has been summarised accordingly:-

1. A proposed shed which is 190.8m² in dimension (21.2m long x 9m wide).
2. The shed is located at the rear of the property, 32.5m from the northern boundary and 12m from the eastern boundary.
3. The shed is made of zincalume and is 3.050m in height.
4. The main justifications of this proposal are:-
 - The owner requires more storage space. Mr Down has an existing shed also 190.8m² in dimension which is at full capacity.
 - The owner collects vintage cars and wishes to provide additional cars and other machinery/goods with adequate shelter and security.
 - The proposed shed will help clean up the property by storing these objects in an enclosed environment.

The owners existing shed cannot store any more cars or goods. The owner therefore proposes an additional shed of the same size so he can keep other cars under shelter and locked up.

Report

The subject land is zoned Resource under the City of Cockburn Town Planning Scheme No. 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

The proposed development complies with the standards and provisions of the City's Town Planning Scheme No. 3 and Council Policy APD 18 with the exception of the following:-

- Council Policy APD 18 - "Outbuildings in a Resource Zone are to have an aggregate maximum floor area of 300m²".

The owner seeks a variation to this requirement by proposing a shed 189m². Combined with the existing 198m² shed, the aggregate floor area of outbuildings on the property would be 378m² if this shed was approved.

The intention of APD 18 is to provide a clear set of guidelines allowing a consistent approach to development in the Resource zone. It is believed that any proposals contrary to the policy requirements are detrimental to the rural amenity and lifestyle which the City wishes to preserve in this locale.

The City is also mindful of any precedent that this approval may set and therefore seeks to uphold the consistent objective of the outbuildings policy.

Alternative Options

It was suggested to the owner that he reduce the proposed shed size down to 110m², which would make it comply with APD 18. Unfortunately, this does not seem an option as the shed company have already manufactured the shed to the initial size of 190.8m².

Recommendation

It is recommended that Council refuse this application on the basis that it does not comply with APD 18 and will set an undesirable precedent for the Resource and Rural zones. Council has a responsibility to protect the rural amenity of the area and therefore should be limiting outbuilding development to the 300m² specified by this policy.

Strategic Plan/Policy Implications

Demographic Planning

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

Natural Environmental Management

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

The Planning Policy which applies to this item is:-
APD18 - Outbuildings

Budget/Financial Implications

Outline any implications to Council budget in prosecution, defending an application for Review to SAT etc.

Legal Implications

Town Planning Scheme No. 3
Planning and Development Act 2005

Community Consultation

In accordance with Clause 9.4 of the scheme, the application has been advertised for public comment.

One (1) landowner was advised of the development application and the City received an objection to this proposal. The main reasons for objection were:-

- The proposal is inappropriate for the resource zone when the applicant already has a large existing shed.
- The proposed shed would impact of the rural amenity of the area.

Attachment(s)

Site Plan and Elevations

Advice to Proponent(s)/Submissioners

The proponent and submissioners(s) have been advised that this matter is to be considered at the 10 July 2008 Council Meeting.

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

Nil.

14.5 (OCM 10/7/2008) - RURAL SHED OVER 399M2 - LOCATION: 459 RUSSELL ROAD EAST MUNSTER - APPLICANT: LESTER FRANCIS & MARIAN HELEN BULL (4411247) (B HOGARTH-ANGUS) (ATTACH)

RECOMMENDATION

That Council:-

- (1) refuse to grant its approval for the proposed outbuilding on 459 Russell Road for the following reasons:-
 1. The proposal is non compliant with Council Policy APD 18 (Outbuildings), which states a maximum aggregate floor area of 300m² per rural property.
 2. The City believes it will set an undesirable precedent for future applications in the locality.
 3. The proposal will have a negative impact on the rural amenity and character of the area.
 4. The proposal is contrary to the orderly and proper planning

of the rural zone.

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

COUNCIL DECISION

Background

Zoning:	MRS:	Rural
	TPS3	Rural
Land Use:		
Lot Size:	1.1356 Ha	
Use Class:	"P"	

Submission

The applicant has provided the following justification in support of the proposal which has been summarised accordingly:-

1. A proposed shed which is 24m x 9m, or 216m² in dimension.
2. The shed is located at the rear of the property, 14.9m from the northern boundary and 6.7m from the western boundary.
3. The shed is 4m high (wall height) and 4.8m high (roof pitch)

The main justification for the proposal is:-

1. Additional storage space for collection of vintage tractors, cars and a caravan.
2. Property is not on scheme water so a new shed will provide improved water catchment.
3. Provide security for belongings.

A copy of the applicant's full submission should be read in conjunction with this report and is contained in the agenda attachments.

Report

The subject land is zoned Rural under the City of Cockburn Town Planning Scheme No. 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

The proposed development complies with the standards and provisions of the City's Town Planning Scheme No 3 with the exception of the following:-

- Council Policy APD 18- "Outbuildings in a Resource Zone are to have an aggregate maximum floor area of 300m²".

The applicant seeks a variation to this policy as the proposed shed will bring the aggregate floor area of outbuildings on this property up to 700m². The two existing sheds are 119m² and 365m² respectively. Council's records indicate that there has been no approval granted for the two existing sheds.

The intention of APD 18 is to provide a clear set of guidelines allowing a consistent approach to development in the Resource zone. It is believed that any proposals contrary to the policy requirements are detrimental to the rural amenity and lifestyle which the City wishes to preserve in this locale.

The City is also mindful of any precedent that this approval may set and therefore seeks to uphold the consistent objective of the outbuildings policy.

Additionally, the side setback for any outbuilding in the rural zone is 10m. The current proposal is for a 6.7m setback. The owner was made aware of this and agreed to comply with the 10m setback if approval is granted.

Alternative Options

Two alternative solutions were suggested to the Owner.

- (1) The first option involved relocating the proposed 216m² shed to the adjoining property in the same ownership, which currently does not have any outbuildings on it and therefore would comply with APD 18. The owner was reluctant to do so as they would not receive the same water catchment benefits and shed access and security was a concern.
- (2) The second option was to demolish the existing 365m² shed, build the new 216m² and retain the 119m² shed. This would result in an aggregate outbuilding floor area of 335m², which whilst still a variation to APD 18, would be more in keeping with the rural character. The owner didn't wish to demolish this shed

as it is already a significant storage area and contributes to the water catchment.

Recommendation

It is recommended that Council refuse this application on the basis that it does not comply with APD 18 and will set an undesirable precedent for the Resource and Rural zones. Council has a responsibility to protect the rural amenity of the area and therefore should be limiting outbuilding development to the 300m² specified by this policy.

Strategic Plan/Policy Implications

Demographic Planning

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

Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.
- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

The Planning Policy which applies to this item is:-
APD18 - Outbuildings

Budget/Financial Implications

N/A

Legal Implications

Town Planning Scheme No. 3
Planning and Development Act 2005
State Administrative Tribunal Regulations

Community Consultation

This application was not advertised for public comment as there are no other affected landowners who could have been reasonably consulted, and the adjoining property is in the same ownership as the subject lot.

Attachment(s)

- (1) Site Plan and Elevations
- (2) Applicant's justification

Advice to Proponent(s)/Submissioners

The proponent and submissioners(s) have been advised that this matter is to be considered at the 10 July 2008 Council Meeting.

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

Nil.

14.6 (OCM 10/7/2008) - PROPOSED MODIFICATION TO CELL 9 YANGEBUP STRUCTURE PLAN - VISKO PARK - LOCATION: RESERVE NO. 47278 BAYVIEW TERRACE YANGEBUP - OWNER: STATE OF WESTERN AUSTRALIA - (R DONG) (9620) (ATTACH)

RECOMMENDATION

That Council:-

- (1) pursuant to Clause 6.2.14.1 (b) of Town Planning Scheme No.3, adopt the amended version of the Proposed Modified Structure Plan Cell 9, Yangebup – Visko Park as per Attachment 4;
- (2) adopt the Schedule of Submissions contained in the agenda attachment;
- (3) forward the amended version of the structure plan, copies of the submissions and the 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
- (4) advise those persons who made a submission of Council's decision accordingly.

COUNCIL DECISION

Background

Visko Park comprises two lots with a total combined area of approximately 3.9711 hectares and is located on the corner of Beeliar Drive and Birchley Road (Attachment 1 refers). The park falls within the area of the Structure Plan for Cell 9, Yangebup which was adopted by the Council on 19 June 2001, and subsequently endorsed by the Western Australian Planning Commission (WAPC) on 29 October 2004.

In May 2006 the Department of Planning and Infrastructure (DPI) State Land Service refused approval for Council to utilise part of the Visko Park for the new site of the redeveloped Cockburn Bowling Club (the reasons for relocating the Bowling Club to the site are provided in the report, *Proposed Relocation of Cockburn Bowling and Recreation Club to Visko Park Yangebup May 2007*, Attachment 2 refers). However, the DPI agreed to reconsider the request if the following issues were addressed:

1. Demonstrate that the proposal has overwhelming community support.
2. Obtain support from the DPI Statutory Planning Department to the proposal.
3. Provide supporting evidence that the area has sufficient Public Open Space (POS) and that the public would not be adversely affected by the proposal.
4. Explore why the Cockburn Bowling Club needs to relocate, what options have been considered, why Visko Park is the preferred option, development concepts, club operational characteristics, public accessibility, proposals for the use and development of the residual area of the park.

Accordingly, in March 2007 Council advertised the proposed amendment to the structure plan. This included surveying 626 property owners in the area surrounding Visko Park to ascertain whether or not there was support for the relocation of the bowling club. There was a very high response rate of 35.6%, 223 of 626 possible responses with 75% of owners were in favour of the development. Furthermore, the City engaged Creating Community Australia Pty Ltd to prepare a report namely *Proposed Relocation of Cockburn Bowling and Recreation Club to Visko Park Yangebup May 2007* (Attachment 2 refers) in order to justify the proposed relocation of the Bowling Club in terms of economic viability and other aspects. The report concludes that the proposal provides a “win-win” solution for all stakeholders including the bowling club, the City of Cockburn, local residents and the broader community.

In September 2007 the City resubmitted the proposal to DPI to address the issues raised previously by the DPI. Notwithstanding the previous survey and consultation, DPI officers required that a formal amendment to the existing 'Cell 9 structure plan – Yangebup' be undertaken and hence a further survey was required as a part of the formal community consultation in accordance with the Town Planning Scheme No. 3 (TPS 3).

Accordingly, the City conducted the formal community consultation process from 9 April 2008 to 12 May 2008, including advertisements in Cockburn Gazette for public comment, survey letters to local households, letters to government agencies for comment, information made available at Council's Administration Office and on Council's website.

Submission

N/A

Report

Results of Consultation and Formal Advertising

At the close of the consultation and advertising, 196 submissions were received including 146 of no objection (agree with the proposal), 27 of objection (disagree with the proposal) and 23 undecided. All the submission comments and officer's recommendations are included in the Schedule of Submission (Attachment 5 refers).

The 146 submissions of "support" (including 86 "strongly support" and 60 "support") represent 74.5% of the total submissions, which suggests that the vast majority of the local community supports the proposal. The 27 submissions of objection represent 13.8% of the total submissions, which indicates that there is only a small portion of the local community object to the proposal. Finally, the 23 submissions of "undecided" only represent 11.7% of the total number of submissions.

Views of Submissions of Objection and "Undecided"

In general, the submissions of objection and "undecided" were due to the following issues:

1. The proposal would significantly increase traffic in the area, particularly, in streets adjacent to the park. The proposed car park off Bayview Terrace would significantly increase traffic in Bayview Terrace and cause visual and noise impact on the amenity of houses along Bayview Terrace.
2. There is insufficient public open space in the area.

3. A football field was proposed for the park in the original Structure Plan. However, the proposed modifications to the Structure Plan would prevent people from playing football in this park.
4. The TAB and liquor licence associated with the bowling club would devalue properties in the area.
5. The proposed relocation of the bowling club would lead to “drunken drivers and pedestrians” in the adjacent streets.

Discussion:

1. Traffic increase to local streets is inevitable for any community facilities being added to a local park including a club house or change rooms for sports facilities on the park. However, this can be alleviated by careful design of vehicle access and car park locations to minimise the local traffic. With regard to the traffic and visual impact, the City’s Strategic Planning department carried out extensive consultation with the engineering department after reviewing the submissions.

It is considered that the best option is to relocate the car park and the bowling clubroom to the area near the corner of Beeliar Drive and Birchley Road. The vehicle access is to be in the same alignment with Mandu Way with a round-about placed at the intersection of Birchley Road and Mandu Way. This would eliminate the traffic going through Bayview Terrace and minimise the traffic on the northern portion of Birchley Road. Furthermore, it would significantly reduce the visual and noise impact on both Bayview Terrace and Birchley Drive.

For the above reasons, it is therefore recommended that the proposed Modified Structure Plan Cell 9, Yangebup – Visko Park be amended as shown in Attachment 4, in order to address the traffic, visual and noise impacts. It should be noted that the plan in attachment 4 is for conceptual purposes. A detailed plan will be presented to Council at the Development Approval stage.

2. With regard to the amount of Public Open Space (POS) in the area, the City recently undertook a detailed POS calculation for Cell 9 and 10 Structure Plan areas (Attachment 6 refers). The required amount of POS for the area is 11.1828ha. This would be allocated as follows, 0.91ha (0.8%) community purpose site for the bowling club, 9.59ha (8.6%) public open space and 0.68ha (0.6%) cash in lieu. This cash in lieu fund has been used for undertaking the development of Visko Park (to the degree of current status). In respect to the above it should be noted that Requirements R 27 – R30 of Element 4 of Liveable Neighbourhoods provides for a portion of open space to be

designated as a community purpose site and included as part of the 10% POS requirement. Thus the proposal conforms to Liveable Neighbourhood requirements.

3. Although the existing Structure Plan shows the park as a multifunctional oval including football, the park has never been constructed or used as formal football field and as such people have only played football in a “casual kicking” manner. The proposed changes to the park can still serve this “casual kicking” purpose as the proposal includes a reasonable space in the northern portion of the park which is considered adequate for football “casual kicking”.
4. The TAB and licensed bar are the existing entertainment components of the bowling club, which are unlikely to be detached from the club. Most of the club members are senior citizens, and therefore are less likely to cause anti-social behaviour in the TAB and the bar, which is evident from its history of operation. Notwithstanding this, with regard to property devaluing, this is a matter of conjecture because, with the increasing trend of an aging population, it could be argued that the bowling club with its existing setting may add value to the Visko Park residential area given that it provides a recreation and entertainment place closer to the local community. Accordingly the City is unable to definitively comment on this issue.
5. With regard to the issue of “drunken drivers and pedestrians”, the majority club members are senior citizens and would likely to be more responsible after drinking. Furthermore, drinking and driving is more of a police issue.

Views of Submissions of “Support”

Overall, the submissions of “support” show the following common views:

1. The proposed facilities are much needed for Visko Park as the park is currently under utilised due to a lack of facilities.
2. The area currently has a lack of recreational sites; the proposed facilities are desirable for providing sports and recreational needs for the community.
3. The proposal would make a better use of the park and create a better place for families and people to meet and socialise.
4. Majority of people indicated that they would use the facilities and a significant number of people (even a young family in its submission) claim that they would like to join the bowling club if it is so close to home.

4. The proposed facilities would improve the security of the area as a result of higher level of passive surveillance due to more activities in the park.
5. Prevent wasting water on grass in Visko Park at the moment while it is underutilised (which is not environmentally sustainable).

Discussion:

On the whole, the survey shows that there is overwhelming support from the local community for the proposal due to the abovementioned reasons. While the park is currently underutilised, the proposal for the park would be beneficial to the local community. It is anticipated that the proposed facilities would encourage more people to use the park for sports and recreational activities and the proposed landscaping would make the park a nice place for community gathering and socialising. This would enhance the animation of the park and therefore foster a stronger sense of community, which is a crucial element of social sustainability. Animation of Public Open Space (POS) has been one of the essential aspects of local cultural planning in many local municipalities for promoting a sense of community spirit and local identity.

Furthermore, the proposal is considered to be more environmentally sustainable as it would reduce the amount of irrigation water required for the park area.

Conclusion

It can be concluded that the proposal not only addresses the economic viability of the key stakeholders (i.e. the Cockburn Bowling Club and the City of Cockburn), but also promotes social and environmental sustainability as discussed in the above. It received overwhelming support from the local community as indicated in both the initial and most recent surveys. Furthermore, it satisfactorily addressed all the issues raised by the DPI in May 2006 as mentioned in the "Background" section of this report. For these reasons, it is recommended that the Council adopt the amended version of proposed Modified Structure Plan Cell 9, Yangebup – Visko Park (as per Attachment 4).

Strategic Plan/Policy Implications

Infrastructure Development

- To construct and maintain community facilities that meet community needs.

- To construct and maintain parks and bushland reserves that is convenient and safe for public use, and do not compromise environmental management.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

Lifestyle and Aspiration Achievement

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To facilitate and provide an optimum range of community services and events.
- To identify community needs, aspirations, expectations and priorities for services that is required to meet the changing demographics of the district.

Budget/Financial Implications

A preliminary cost estimate of developing the proposed facilities was obtained in March 2005. This was approximately \$4.5 million; however, price escalations over the past three years may see the cost increase to beyond \$5 million. Should the DPI approve the proposal a more updated report will be presented to Council that identifies the funding options available for the project to proceed.

Legal Implications

N/A

Community Consultation

The City commenced the formal community consultation and advertising process from 9 April 2008 to 12 May 2008, including advertisements in Cockburn Gazette for public comment, survey letters to local households, letters to the government agencies for comment, and information made available at Council's Administration Office and on Council's website.

Attachment(s)

1. Location Plan
2. Report by Creating Community – Proposed Relocation of Cockburn Bowling and Recreation Club to Visko Park Yangebup
3. Proposed Modified Structure Plan for Advertising
4. Amended Version of Modified Structure Plan
5. Schedule of Submissions
6. POS calculation Cell 9 and 10

Advice to Proponent(s)/Submissioners

Those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 July 2008 Council Meeting.

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

Nil.

14.7 (OCM 10/7/2008) - JETTY DESIGN GUIDELINES FOR STAGE 4A PORT COOGEE, NORTH COOGEE - PREPARED BY: TAYLOR BURRELL BARNETT - PROPONENT: AUSTRALAND (125410) (D ARNDT) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the Jetty Design Guidelines presented for Stage 4A Port Coogee, North Coogee, prepared by Taylor Burrell Barnett for Australand, pursuant to the provisions contained under Clause 6.2.15 of the City of Cockburn Town Planning Scheme No. 3; and
- (2) advise the applicant accordingly.

COUNCIL DECISION

Background

At its meeting on 12 June 2008 Council resolved to approve Detailed Area Plan (DAP) and Design Guidelines for Stage 4A of the Port Coogee development area. The land is identified for low density residential development (R25) and forms one of the 'Water Based Residential' precincts within the subdivision. The DAP and Guidelines provide builtform development for 36 single residential lots within the stage, including 18 waterside lots on the southern side of the subdivision and 18 lots forming the northern edge of the subdivision abut foreshore public open space.

The report on the DAP also referred to Jetty and Mooring Design indicating that these were currently in draft form and would be the subject of a further item to Council.

Submission

The Jetty Design Guidelines (attached) deal with the control and development of jetties in the mooring envelopes of the waterside lots.

Report

Presentation of the Jetty Design Guidelines to the City was by the planning consultant for Port Coogee. Subsequent to the submission of the guidelines, considerable review and negotiation has taken place by Council Officers with the consultant and developer. In this regard, the Planning Services was particularly keen to ensure that all aspects of future development within the waterside portion of the lots were satisfactorily covered in the document.

The Jetty Design Guidelines will govern:

- The location and dimensions of the jetty and mooring envelopes for the waterway lots.
- The design parameters for any proposed jetties.
- The construction standards for any proposed jetties, pontoons or mooring piles.

Essentially the Jetty Design Guidelines will require an individual to submit a planning application to the City for any pontoon or jetty within the designated jetty envelope for that lot, with any pontoons or jetty being required to be constructed in accordance with the specified design guidelines and requirements. Upon receipt of Council's planning approval the applicant is then required to submit building licence application which is to be supported by certified structural engineering details for the proposed construction.

The Guidelines specify the type (either a piled floating pontoon or non-piled floating pontoon) and the maximum length of any jetty or pontoon (based on the size of the respective mooring envelope).

The Jetty Design Guidelines are considered comprehensive and complete in terms of content, and it is recommended that Council adopt the document.

Conclusion

The Jetty Design Guidelines provide detailed controls and direction for development on the subject lots. As mentioned, Council's Planning and Engineering Services have worked closely with the planning consultant and developer to ensure the documents contain sufficient,

well considered requirements to ensure future development takes place in an orderly and proper manner. It is, therefore, recommended that the Jetty Design Guidelines be adopted by Council.

The approval of the Design Guidelines is in accordance with the provisions of 6.2.15 of the Scheme. The provisions identify planning considerations to be included in a DAP (and Guidelines) and the process for adopting such. Where a DAP/Guidelines may affect landowners other than the owner/s of the subject land, the City may undertake consultation. As Stage 4A essentially represents an island with no immediate neighbours, no consultation has taken place.

Clause 6.2.15.8 provides scope for a DAP/Guidelines to be amended.

Strategic Plan/Policy Implications

APD 31 – Detailed Area Plans

Demographic Planning

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

Lifestyle and Aspiration Achievement

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

Budget/Financial Implications

N/A

Legal Implications

Town Planning Scheme No. 3
Planning & Development Act 2005

Community Consultation

The Jetty Design Guidelines have not been the subject of consultation. The Guidelines sit within the framework of the Port Coogee Structure Plan which has been through a comprehensive public consultation program, including workshops. Additionally, Stage 4A sits in isolation to other development precincts within Port Coogee.

Attachment(s)

- (1) Location/Structure Plan
- (2) Jetty Design Guidelines

Advice to Proponent(s)/Submissioners

The Proponent has been advised that this matter is to be considered at 10 July 2008 Council Meeting.

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

Nil.

14.8 (OCM 10/7/2008) - SOUTH COAST TOURIST DRIVE - APPLICANT: SOUTH WEST GROUP (1328) (D ARNDT) (ATTACH)

RECOMMENDATION

That Council support the development of a dedicated Tourist Drive being established between Fremantle and Mandurah.

COUNCIL DECISION

Background

In September 2007 the South West Group hosted a Tourism Forum at Rockingham. One of the key recommendations from this forum was the development of a dedicated Tourist Drive between Fremantle and Mandurah, following as closely as practical to the coast.

Submission

The South West Group intends to progress a submission to the Western Australian State Government for this Tourist Drive to be established. However, before this occurs, the South West Group requires the support of the various local governments along the proposed route to be demonstrated.

Report

Since the 2007 forum a concept tourist drive has been identified and is provided as an attachment, together with a description of the proposed tourist drive, identifying both the roads involved in the drive as well as the various attractions that exist along the proposed tourist drive.

In respect to Cockburn, the proposed drive enters at the intersection of Cockburn Road and Rockingham Road. The route then travels south along Cockburn Road past Port Coogee, Woodman Point, the Australian Marine Complex and the Beeliar Regional Park through to the boundary with the Town of Kwinana at the Cockburn Road/Rockingham Road intersection.

The proposed tourist drive will give access to over 15 beaches and is the closest practicable route to the coast south of Fremantle. The travel time is comparable with other inland routes and has the potential to draw new visitors to the region.

Once approved as a tourism drive, the South West Group intends to seek funding from the Federal Government to assist in the erection of signage, interpretative measures and promotion of the route.

As part of this process, the South West Group has also been consulting with the Department of Industry and Resources in respect to societal risk factors (in relation to the Kwinana Industrial Area, including Latitude 32, the Australian Marine Complex and the proposed Outer Harbour) and will be seeking input from this Department's risk consultant in respect to these matters.

It is considered that this is a good initiative and should be supported. Fremantle, Kwinana and Rockingham have all given their formal endorsement to the proposal.

Strategic Plan/Policy Implications

Lifestyle and Aspiration Achievement

- To conserve the character and historic value of the human and built environment.

Employment and Economic Development

- To plan and promote economic development that encourages business opportunities within the City.

Budget/Financial Implications

It is anticipated that the project will be fully grant funded, however a small contribution (approximately \$2,500) towards promotion of the proposed Tourist Drive may be required.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. Proposed South Corridor Coastal Drive.
2. Comment on section of drive within City of Cockburn.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.9 (OCM 10/7/2008) - HERITAGE NOMINATION - SOUTH FREMANTLE POWER STATION - LOCATION: LOT 2167 ROBB ROAD, NORTH COOGEE - OWNER: VERVE ENERGY - APPLICANT: CITY OF COCKBURN (1048) (D ARNDT) (ATTACH)

RECOMMENDATION

That Council:-

- (1) jointly with the City of Fremantle, nominate the South Fremantle Power Station for state heritage listing through the Heritage Council of Western Australia's statutory process for adding significant places on the Register of Heritage Places;
- (2) request that the Minister for Heritage apply a conservation order, in accordance with Section 59 of the Heritage of Western Australia Act, 1990 over the South Fremantle Power Station.

COUNCIL DECISION

Background

The Heritage Council of Western Australia's (HCWA) Register of Heritage Places provides official recognition of a place's cultural heritage significance to Western Australia, and assists the Heritage Council to identify, and provide advice for the conservation of heritage under the requirements of the Heritage of Western Australia Act 1990 (as amended).

Nomination of a place for the State Register is open to anyone.

The South Fremantle Power Station was assessed by the Heritage Council of WA for its heritage significance and the evaluation report concluded that its significance meets the state registration's criteria. It was therefore nominated for inclusion on the State Register of Heritage Places and included on the state register on an interim basis on 28 October 1997.

In April 2004 Council included the buildings onto its Municipal Heritage Inventory and classified them as category 'A'. Category "A" recommends that the highest level of protection apply and that the place be recommended for entry into the State Register of Heritage Places.

At its meeting on the 3 March 2005 Council considered advice from the HCWA that the Power Station was being considered for permanent listing on the State Register. Council resolving to:

- (1) *advise the Heritage Council that Cockburn Council objects to the placing of the South Fremantle Power Station on the permanent Registry of Heritage Places; and*
- (2) *request Western Power and the State Government continue to investigate redevelopment options for the South Fremantle Power Station as a priority, in an endeavour to restore public access to the coast and to revitalise this large derelict landmark building.*

The nomination for the site to be permanently registered however never progressed, by a decision of the Minister.

The site, following the break-up of Western Power, was transferred to Verve Energy, a result the ownership moved from state government to private ownership. Due to the Heritage Council being unaware of the change of ownership and the twelve month assessment period expiring the interim registration lapsed.

The place is also included on the Aboriginal Sites Register which is maintained at the Department of Indigenous Affairs (DIA) under the protection and management of the Aboriginal Heritage Act 1972.

Submission

The City of Fremantle are seeking a joint initiative between the City of Cockburn and City of Fremantle to nominate the South Fremantle Power Station for inclusion on the State Register of Heritage Places.

Report

The South Fremantle Power Station has been recognised as being of cultural heritage significance to Western Australia as evidenced by its previous inclusion on the State's Register and the statement of significance (Attachment 1 & 2).

Recently the Western Australian Planning Commission has advertised the draft Cockburn Coast District Structure Plan for public comment. It is intended that this coastal plan provide the framework for redevelopment of the industrial coastal area in Cockburn. The plan recognises the potential for the power station to be incorporated as a central focus of the development and states that it is to remain as a landmark. Information on this project can be found at the front page of the City's website: www.cockburn.wa.gov.au.

At the City of Fremantle's meeting on June 25, 2008 the City of Fremantle sought support from the City of Cockburn to ensure that the heritage values of the power station are retained and the place is conserved and sympathetically incorporated into new development.

The heritage significance of the power station and its relevance to Cockburn's heritage has previously been recognised by the HCWA's investigation and assessment of its values. As noted in the HCWA documentation the place has historical values to both Fremantle and Cockburn.

Inclusion on the state register requires that all development proposals regarding a registered place be referred to the Heritage Council for advice. Listing the power station would enable the draft Cockburn Coast Structure Plan or any proposed development to be referred to the Heritage Council for advice thereby ensuring protection of the station's heritage values. The inclusion of the site on the State Register does not preclude the site being redeveloped for the purposes outlined in the draft Cockburn Coast District Structure Plan.

It is recommended that the Council support the City of Fremantle's request to seek joint nomination of the station, for its inclusion on the State Heritage Register. The nomination is warranted to ensure due recognition of its heritage significance, conservation and sympathetic incorporation in the planned redevelopment of the Cockburn coastal area.

In addition it is recommended that the Minister apply a conservation order, under section 49 of the Heritage of Western Australia Act, 1990, in order to ensure that the building is protected in the interim, whilst any nomination is being assessed by the HCWA.

Strategic Plan/Policy Implications

Lifestyle and Aspiration Achievement

- *To conserve the character and historic value of the human and built environment.*

Budget/Financial Implications

Nil.

Legal Implications

Heritage of Western Australia Act, 1990 (as amended)

Community Consultation

Consultation has occurred between Council Officers and officers from the City of Fremantle and the Heritage Council of Western Australia.

Attachment(s)

- (1) HCWA assessment documentation
- (2) HCWA interim entry documentation

Advice to Proponent(s)/Submissioners

N/A

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

Nil

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (OCM 10/7/2008) - LIST OF CREDITORS PAID - MAY 2008 (5605) (K LAPHAM) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for May 2008, 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

The list of accounts for May 2008 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

Strategic Plan/Policy Implications

Governance Excellence

- 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)

List of Creditors Paid – May 2008.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.2 (OCM 10/7/2008) - STATEMENT OF FINANCIAL ACTIVITY - MAY 2008 (5505) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council receive the Statement of Financial Activity and associated reports for May 2008, 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 May 2008.

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, Financial Management Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality. This standard defines materiality in financial reporting and states that materiality is a matter for professional judgement. Information is material where its exclusion may impair the usefulness of the information provided. AAS5 does offer some guidance in this regard by stating that an amount that is equal to or greater than 10% of the appropriate base amount may be presumed to be material.

The materiality threshold set by Council for the 2007/08 financial year \$50,000 or 10% (whichever is the greater). This was increased from \$10,000 from previous years to better focus reporting and management's attention to variances considered more material in view of Council's budget size.

Strategic Plan/Policy Implications

Governance Excellence

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

Budget/Financial Implications

Where variances reported are of a permanent nature, they will 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 – May 2008.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.3 (OCM 10/7/2008) - VARIOUS DEBTS - WRITE OFF (5651) (K LAPHAM) (ATTACH)

RECOMMENDATION
That Council write off the following debts:

- (1) Skyride Holdings - \$575.00;
- (2) various fines enforcement debts - \$18,438.50; and
- (3) the 2007/08 Budget be amended so as to put into effect recommendations (1) and (2) above by increasing the bad debts expense by \$19,013.50.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Council's Auditor has in the past suggested that where all avenues for the recovery of outstanding charges have been fully examined and exhausted that these debts be removed from the Debtors Ledger.

Submission

To obtain approval to write off debts.

Report

The following is a summary of debts that have been outstanding for some time, due to attempts in trying to recover debts.

Skyride Holdings (Debtor No.83250)

Skyride Holdings incurred costs of \$575.00, for the reinstatement of a concrete footpath at the intersection of Russell and Coogee Roads. Since the works were undertaken the Company went into liquidation. The debt was referred to Dun and Bradstreet for recovery.

Correspondence back from Dun and Bradstreet advised that all attempts to recover the debt were unsuccessful, and that the debt should be written off.

Various outstanding Infringements – Various Debtors

A number of fines have been referred back to Council from the Fines Enforcement Registry, advising that the debts are not collectable and need to be removed from the infringements system. These debts are irrecoverable as either the offender cannot be located, or sufficient details provided on the infringement are insufficient to allow a debt recovery. A listing of fines requested to be written off by the Fines Enforcement Agency is attached to the Agenda.

Strategic Plan/Policy Implications

Governance Excellence

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

Budget/Financial Implications

Outstanding debts totalling \$19,013.50.

Legal Implications

Debts which are irrecoverable require Council authorisation under the provisions of the Local Government Act, Section 6.12 (1) (c).

Community Consultation

N/A

Attachment(s)

A listing of fines requested to be written off by the Fines Enforcement Agency.

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 10/7/2008) - REMOVAL OF COUNCIL TREES ADJACENT TO PROPERTY - LOCATION: 47 GERALD STREET SPEARWOOD - OWNER: GARY STACK (2206443; 450037) (A CONROY) (ATTACH)

RECOMMENDATION

That Council does not agree to the removal of trees growing on Gerald Street Reserve, adjacent to the side boundary of number 47 Gerald Street.

COUNCIL DECISION

Background

From 2 February 2001, Mr Gary Stack has regularly requested that the City of Cockburn remove trees growing on Gerald Street Reserve, adjacent to the side boundary of his residence located at number 47 Gerald Street, Spearwood, as leaves falling from the trees block his

roof gutters causing them to overflow during rain events, allowing water to enter the roof space and damage his house. On each occasion the City has advised Mr Stack that the trees will not be removed because they do not meet the criteria for removal, as detailed in the Council's Position Statement PSEW15 – Removal and Pruning of Trees.

Mr Stack has not been accepting of the City's decision not to remove the trees and has appealed to various agencies to intervene on his behalf. Persons canvassed by Mr Stack have been:

1. February 2002
Member of the Legislative Assembly Mr Francis Logan, the member for Cockburn.
2. May 2003
Member of the Legislative Assembly Mr Francis Logan, the member for Cockburn.
3. July 2003
Ombudsmen Western Australia

Following investigation of Mr Stack's complaint, the Ombudsmen's Investigating Officer concluded in her final report that:

"It is my view that the decision of the City of Cockburn to not remove the trees was reasonably open to it to make in the circumstances".

The Ombudsmen advised Mayor Lee by letter on the 3 November 2003, that Mr Stack's complaint had not been upheld and that the file would be closed.

4. July 2007
Member of the Legislative Council the Honourable Sheila Mills, the member for South Metropolitan

Throughout the course of Mr Stack's complaints regarding damage to his house, he has consistently claimed that he is unable to clear the gutters himself because of a medical condition and that he doesn't have a family/friends support group that can assist him or the financial means to arrange for others to clear the gutters for him.

The City has not been unsympathetic to Mr Stack's claim and at the time of his request arranged clearing of his gutters and installation of gutter guard, at no cost to him. In a letter from Mayor Lee, dated 9 June 2003, Mr Stack was further advised:

In normal practice, in order for Council to provide home and community care assistance (HACC), an assessment of an

applicant's financial situation and level of disability needs to be determined. This involves an interview process to establish whether, in fact, you are eligible under our policy to have HACCC assistance.

...I think it important to clarify that the previous assistance you have received was above and beyond normal Council practice.

The offer to Mr Stack was to have his roof gutters cleaned every twelve weeks subject to a ten-dollar charge per service and conditional on him agreeing to an assessment to determine if he was eligible to receive the service. Mr Stack declined to accept the offer of an assessment and therefore it lapsed. The City's Community Services no longer offer this service to the community.

Submission

N/A

Report

On 8 October 2007, the City received a letter from Mr Stack requesting that trees growing on Gerald Street Reserve, adjacent to the side boundary of number 47 Gerald Street, Spearwood, be removed on the grounds that (in summary):

- 1 Leaves falling from the tree block the roof gutters, causing water to overflow during wet weather and enter the roof space, damaging ceilings, walls and floor coverings.
- 2 Every winter it has been necessary for him to clean out the gutters and the roof valley and remove all leaves, twigs and sometimes branches of approximately 1 metre in length, on almost a daily basis.
- 3 By not having removed the trees, the City has caused him a lot of worry and stress and cost him a lot of time and effort and physical pain and put him at significant risk, because of his condition of health.

Officers have evaluated Mr Stack's request and recommended that the trees are not removed and that they are allowed to develop their natural habit as they do not meet the requirements of Council Position Statement PSEW15 for removal or pruning of trees.

Council's Position Statement PSEW15 states, in part, that -

*Trees shall **not** be removed unless they are:*

- 1 *dead;*

- 2 *in a state of decline to the point that survival is unlikely;*
- 3 *structurally unsound, to the point of constituting imminent*
danger to persons or property;
- 4 *damaging or likely to damage property, where alternatives to*
prevent damage are not possible;
- 5 *part of a tree replacement program; or*
- 6 *obstructing a Council approved works program, such as road*
and drainage works.

and that;

Trees growing on land under the direct care, control and management of the City, that are considered to be unduly interfering with the amenity available to adjacent residents in the use of their land, may be removed at the discretion of the Council.

An inspection of the trees undertaken by an officer from the City indicates that they are Eucalyptus species of approximately ten metres in height with a combined crown spread of ten metres north south and twenty metres east west. No parts of the trees extend across the property boundary line of number 47 Gerald Street, Spearwood. They are healthy, vigorous, structurally sound and not damaging or likely to damage property - where alternatives to prevent damage are not possible. The trees are not part of a tree replacement program or obstructing a Council approved works program, such as road and drainage works.

A key component of Mr Stack's request to have the trees removed is that he claims they are causing damage to his house, in that leaves falling from them block the roof gutters, causing water to overflow during wet weather and enter the roof space, damaging ceilings, walls and floor coverings. The City's position regarding this claim is that the cause of damage is a direct consequence of not cleaning out the roof gutters before the onset of wet weather and not as damage caused by the trees.

For the purpose of determining if a tree(s) should be removed or pruned, "damaging or likely to damage property" is defined by the City as any damage to property caused by or likely to be caused by any part of a tree that is currently attached to the tree. For example, if the roots of a tree are lifting the foundations of a dividing wall causing the wall to crack, then it would be judged that the tree was causing damage to the wall. Similarly, if the branches of a tree are growing up and through overhead power lines, then it would be judged that the tree was likely to cause damage, particularly in stormy weather.

Uncertainties in how to categorise the effect of tree parts that become detached but do not cause immediate damage often exist. A particular example is the case in question, where tree debris such as leaves,

twigs, floral parts and bark falling from trees block roof gutters, but the action of the tree debris falling and impacting with the roof or roof gutters has not caused damage to them or any other thing. When it rains, if the gutters have not been cleared, overflowing water enters the house causing damage to ceilings, walls and floor coverings. For the purpose of determining whether a tree(s) should be pruned or removed, officers from the City would determine that the tree(s) did not cause the damage. It would be judged that the damage was caused by water overflowing from blocked gutters.

The basis for categorising water damage to buildings because of gutters being blocked with leaves, twigs, floral parts and bark, as not having been directly caused by trees, is threefold. In the first instance it would be reasonable to presume that most people know that roof gutters blocked with foliage debris from trees may overflow during rainy weather and cause damage to their residence. In the second it would be reasonable to presume that most people are aware that nearby trees are likely to drop foliage debris into their gutters. And, thirdly, it would be reasonable to presume that most people are aware that if they clean out their gutters before rainy weather they can avoid water damage from overflowing gutters. In summary, it can be reasonably presumed that residents would:

1. Be aware of the risk (of water damage from blocked gutters).
2. Know the source of the risk (overflowing water from gutters blocked with foliage debris from nearby trees).
3. Know how to avoid the risk (by arranging to have the gutters cleaned out before the onset of wet weather).

Should the argument not be accepted that Mr Stack's house is not being damaged by the trees through the action of shedding leaf, bark and twig debris, but by the action of not clearing blocked gutters before rain events, then, it is rational to remove the trees in accordance with Position Statement PSEW15. However, Position Statement PSEW15 also requires officers to demonstrate that alternatives are not possible to prevent damage. In this instance, it is contended that clearing the gutters will prevent damage.

Should the argument be accepted that Mr Stack's house is not being damaged by the trees and/or the alternative of clearing the gutters is available to prevent damage, then, it follows that the issue to be resolved is a determination of whether the trees are considered to be unduly interfering with the amenity available to Mr Stack in the use of his land. It is proposed by officers that the trees are not unduly interfering with Mr Stack's ability to enjoy the amenity of his land because:

1. His situation is not significantly different from others in similar circumstances in the community.

2. Trees are a highly desirable part of the landscape and, wherever possible, a certain amount of any inconvenience associated with them should be tolerated (Legal Aid Western Australia 2000).
3. The level of inconvenience to be borne by him is reasonable when compared with benefits to be retained by the rest of the community, in not removing the trees.

In his request to have the trees removed, Mr Stack put forward that every winter it has been necessary for him to clean out the gutters and the roof valley and remove all leaves, twigs and sometimes branches of approximately 1 metre in length, on almost a daily basis, as a reason for removal. It is accepted that clearing of the roof gutters is required, although the need to do this on a daily basis in winter is debatable. This situation is not different from thousands of other residents and ratepayers across the City of Cockburn who is affected by leaf debris falling from trees under the care and control of the Council, their neighbour's trees and their own trees. In most circumstances, although annoyed by the fact, many are prepared to tolerate the inconvenience because they regard trees as being highly desirable and integral to the urban landscape, providing a range of social, environmental and economic advantages. As such, they consider them to be an integral part of the total public landscape amenity affecting and benefiting all residents within the locality, individually and collectively.

Mr Stack also claims that by not having removed the trees, the City has caused him a lot of worry and stress and cost him a lot of time and effort and physical pain and put him at significant risk, because of his condition of health.

Substantiation of this claim would potentially give grounds for intervention by the Council in relieving him of the burdens he has detailed. Unfortunately, an offer by the City during 2003 to assess his financial situation and level of disability, to determine if his situation was significantly different from others in similar circumstances, was declined by Mr Stack. Accordingly, officers could only conclude that he either has the financial means to pay others to clear the gutters for him but chooses not to, because he believes the community should bear the cost via the Council; or his level of disability is not sufficient to prevent him from clearing the gutters. Either way, officers are left to determine if the inconvenience caused to Mr Stack in not removing the trees is reasonable, when compared with the benefits to be lost to the community if the trees were removed.

In summary, officers have not removed the trees because they believe:

1. The trees are not causing direct damage to Mr Stack's house.
2. Damage is being caused to Mr Stack's house by water overflowing from roof gutters that have not been cleared of debris.

3. The inconvenience caused to Mr Stack in having to clear roof gutters of tree foliage debris is reasonable, when compared with the benefits provided by trees to the community.
4. Mr Stack has not demonstrated that his circumstances are significantly different from any other member of the community in a similar situation, to warrant intervention by the Council.

Mr. Stack was accordingly advised of the officer's decision and reasons for the decision at a meeting held 10:00 a.m. Friday 26 October 2007, with the Council's Chief Executive Officer and Manager Parks and Environment.

On the 18 April 2008, the City received a letter from Chris Stokes & Associates - Barristers and Solicitors, advising they act for Mr. Gary Stack in respect to a claim for nuisance against the City of Cockburn. The claim for nuisance is predicated on an allegation that the City of Cockburn:

1. planted the two trees in question;
2. is the owner of the land on which the trees were planted;
3. has actual knowledge the trees are shedding debris in the form of leaves, branches and twigs that are a nuisance and danger to Mr. Stack and are causing danger to him; and
4. has failed to respond to repeated requests by Mr. Stack over a number of years to stop the nuisance continuing to occur.

The letter from Chris Stokes and associates also advised that Mr. Stack is resolved on taking whatever legal measures are necessary to have the nuisance removed.

In response to the letter from Chris Stokes & Associates, advising they act for Mr. Gary Stack, officers sought legal advice from the Council's solicitor, McLeods, as to whether the trees constitute a nuisance at law and whether there is any legal basis for Mr. Stack's foreshadowed legal claim against the City. In summary, McLeods advised that, in their opinion, after reviewing similar cases, the leaves and/or small branches falling from the two trees would not constitute a nuisance sufficient to entitle Mr. Stack to either an award of damages or an injunction requiring removal of the trees.

Strategic Plan/Policy Implications

Demographic Planning

Key Result Area: Managing Your City

Council's Position Statement PSEW15 states, in part:

Where the Council has resolved to authorise removal of a tree at the request of an adjacent property owner:

- 1 Removal shall be at full cost to the property owner who made the request for removal.
 - 2 The tree shall be dismantled to the ground, removed from the site and the stump shall be ground out.
 - 3 The tree shall be removed by a suitable contractor engaged by the City for the purpose.
 - 4 The tree shall not be removed until the City has received payment for the full cost of removal.
 - 5 The City at the Council's cost shall plant a replacement tree suitable for the location, within six months of removing the original tree.
- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
 - To ensure development will enhance the levels of amenity currently enjoyed by the community.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

Legal advice received from McLeods – *Confidential Attachment*.

Advice to Proponent(s)/Submissioners

The Proponents have been advised that this matter is to be considered at the 10 July 2008 Council Meeting.

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

Nil.

16.2 (OCM 10/7/2008) - MANAGEMENT OF LOT 800 LYON ROAD, AUBIN GROVE - OWNER: WAPC - APPLICANT: CITY OF COCKBURN (6003792) (C BEATON) ATTACH)

RECOMMENDATION

That Council:

1. advise the Western Australian Planning Commission that the City would be prepared to accept care, control and management of Lot 800 Lyon Road Aubin Grove on the basis that it is amalgamated into Crown Reserve 48078;
2. accept the WAPC financial package of \$60,000 over three years to assist with the management of Lot 800 Lyon Road;
3. adjust the 2008/2009 financial year budget to incorporate the \$30,000 income provided by WAPC with a correlating expenditure of \$30,000 for the maintenance of Lot 800 Lyon Road; and
4. incorporate the ongoing maintenance costs into future budgets.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

The conservation of local bushland is an issue of a growing concern to the local community. Ongoing development within the district is creating considerable conflict in terms of the conservation and protection of valuable local bushland and wetlands. With our municipality developing at such a rate it is important that Council continues to protect and enhance our bushland and wetland areas. Natural areas are important for the conservation of biodiversity and the sustainable future of Cockburn

The City of Cockburn is fortunate in that it has been able to retain some fine examples of natural areas. Council's commitment to conservation and protection of our natural areas is evident in a number of internal policies including the Sustainability Policy, Wetland Conservation Policy and the Bushland Conservation Policy.

Lot 800 Lyon Road, Aubin Grove is a natural area, approximately 27 hectares in size, which is owned by the Western Australian Planning Commission (WAPC). An inspection by staff from the Environmental Services section has revealed that a large portion of this lot can be considered good quality bushland. More than half the lot encompasses a conservation category sump land. To the south is Crown Reserve 48078 (The Sanctuary Bushland), which is 11 hectares of very good quality bushland that contains a conservation category wetland. This lot will soon become the management responsibility of Cockburn. To the east is the resource zone which currently contains two large rural lots each of which also contain very good quality bushland and conservation category wetlands. To the west is Lyon Road and land which is currently being developed for residential purposes. To the north is lot 9028 Gibbs Road which is also destined to be developed. Lot 800 has new fencing around the entire perimeter.

Submission

Council consider accepting Lot 800 Lyon Road, Aubin Grove.

Report

The City received a letter dated 25 March 2008 from the Western Australian Planning Commission asking Council if we would be prepared to accept management responsibility for Lot 800 Lyon Road, Aubin Grove.

Council had previously expressed a desire to retain the balance of original Lot 204 Lyon Road, as shown on the attachment, for its conservation value. Whilst Council has not been successful in obtaining that portion of land, there is now an opportunity to secure this 27 hectare parcel of good to very good natural bushland enabling the City to consolidate its bush reserves in this area. It is unlikely that WAPC would allocate enough funds to adequately maintain the area. The lack of maintenance not only impacts on the quality of the bushland on this site but litter, weed and other infestations would eventually encroach into Reserve 48078. Should Council accept management responsibility for the lot the WAPC would arrange to have the lot amalgamated with Crown Reserve 48078 to create one large reserve for the purposes of conservation and public recreation. The WAPC would then recommend having the reserve transferred to the State of Western Australia free of charge, with a Management Order in favour of the City of Cockburn.

After the inspection staff estimated the costs associated with managing Lot 800. It was estimated that it would cost approximately \$40,000 per annum to manage the site. A letter was sent to the WAPC conveying this information and inquiring whether there was financial assistance available to assist Council to manage the area in the short term as it would be unfair to place such a large financial burden on ratepayers to undertake initial works in this area given that the site has not previously been the responsibility of Cockburn. After negotiations the WAPC responded in the affirmative and is prepared to offer \$60,000 over a period of three years to assist with management of the site.

It is the recommendation of staff that Council accept management responsibility for Lot 800 Lyon Road, Aubin Grove for the following reasons:

1. It is a Bush Forever site and has good to very good natural vegetation on the site, which is worthy of preserving.
2. The value of seeking a management order and amalgamation with Reserve 48078 is that it becomes more economical and practical to effectively maintain the site.
3. One of the strategies listed in Council's Bushland Conservation Policy indicates that Council should set aside funds to purchase local bushland. This is being offered to Council to manage free of charge with an initial payment of \$60,000.
4. Accepting management responsibility complies with the objectives of the Sustainability Policy, the Wetland Conservation Policy and the Bushland Conservation Policy
5. If the area is not appropriately managed it will continue to degrade and become weed infested and ultimately become a liability to Council due to its proximity to other bushland areas.
6. This area, when combined with Crown Reserve 48078 (The Sanctuary Bushland), creates a large 33 hectare lot of good quality bushland that is reserved for the purposes of conservation and public recreation.
7. The area will allow bushland linkages to be maintained to neighbouring bushland and wetland areas and assist to conserve biodiversity and genetic variability.
8. The financial assistance offered by the WAPC is unlikely to be increased and will offset some of the initial financial costs associated with maintaining the site.

9. The large 33 hectare lot could be listed for inclusion within the Jandakot Regional Park.

Conclusion

Assuming management responsibility of Lot 800 Lyon Road, Aubin Grove will benefit the community, local fauna and flora and enhance the perception within the community that Council is committed to sustainability and the conservation and protection of our natural assets.

Strategic Plan/Policy Implications

Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.
- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.
- To manage the City's waste stream to achieve sustainable resource management, in an environmentally acceptable manner.

Budget/Financial Implications

It is estimated that the cost to maintain Lot 800 Lyon Road, Aubin Grove will be \$40,000 per annum. The costs would be requested to be included in future budgets. There may be additional costs associated with infrastructure but it is expected that this will not be required in the short term.

The WAPC have agreed to provide \$60,000 to assist the City with maintenance over the next 3 years. Funding will be provided on the following basis:

- 2008/09 - \$30,000
- 2009/10 - \$15,000
- 2010/11 - \$15,000

The \$30,000 will offset direct costs in the 08/09 financial year with the ongoing maintenance being budgeted in future years.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. A copy of a letter from Western Australian Planning Commission with a map showing the location of Lot 800 Lyon Road Aubin Grove.
2. Location Plan – Photographic Overhead.

Advice to Proponent(s)/Submissioners

N/A

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

Nil

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (OCM 10/7/2008) - TENDER RFT12/2008 - CONSTRUCTION SERVICES - CIVIL WORKS HAMMOND ROAD SPORTS COMPLEX, SUCCESS (RFT12/2008) (S HARRIS) (ATTACH)

RECOMMENDATION

That Council accept the tender submitted by Wormald Pty Ltd, for Tender No: RFT12/2008 – Construction Services - Civil Works Hammond Road Sports Complex Success, for the lump sum price of \$2,453,979 (GST inclusive).

COUNCIL DECISION

Background

The project comprises the development of the undeveloped Reserve 7756 Hammond Road, Success into a regional multi-purpose sport and recreation facility for the residents of the City of Cockburn.

Council at its Ordinary meeting of 8 May 2008 resolved to proceed to tender for the Civil Works for the development of the Success Recreational and Community Facilities.

Based on the adopted option for progressing the project, Civil Works for the project were estimated to be \$3,520,000 inclusive of GST. While this contract represents the majority of Civil Works, some Civil Work items will be completed in subsequent contracts.

Submission

Tenders closed at 2.00 p.m. (AWST) on Thursday, 19 June 2008 and tender submissions were received from:

1. Griffin Civil
2. Canning Vale Earthmoving Pty Ltd
3. CECK Pty Ltd
4. Curnow Pty Ltd
5. Riverlea Corporation
6. Musgrave Contracting
7. Tasman Civil Pty Ltd
8. Georgiou Group Pty Ltd
9. Wormall Pty Ltd
10. Yarnell Pty Ltd
11. Croker Construction (WA) Pty Ltd
12. Industrial Roadpavers (WA) Pty Ltd
13. Downer EDI Works Pty Ltd
14. Brierty Ltd

Report

Compliant Tenderers

There were fifteen (15) tenders submitted and eight (8) were deemed non-compliant with the conditions of the tendering and compliance criteria.

1. VDM Earthmoving Contractors Pty Ltd - T/As Malavoca, Riverlea Corporation and Industrial Roadpavers (WA) Pty Ltd failed to comply with the conditions of tendering.
2. Musgrave Contracting failed to complete the price schedule.
3. Tasman Civil Pty Ltd, Georgiou Group Pty Ltd and Croker Construction (WA) Pty Ltd failed to comply with the specification and failed to offer a fixed price.
4. Downer EDI Works Pty Ltd failed to offer a fixed price.

Consequently, only Griffin Civil, Canning Vale Earthmoving Pty Ltd, CECK Pty Ltd, Curnow Pty Ltd, Wormall Pty Ltd, Yarnell Pty Ltd and Brierty Ltd were further assessed.

Elevation Criteria

<u>Evaluation Criteria</u>	<u>Weighted Percentage</u>
Relevant Experience	15%
Financial Position	10%
Key Personnel Skills & Experience	10%
Tenderer's Resources	5%
Tendered Price	60%
Total	100%

Tender Intent/Requirements

The City of Cockburn is seeking the services of a suitably qualified and experienced Civil Contractor for the construction of a regional Sports Complex on Reserve 7756, Hammond Road, Success WA.

There is a conservation category wetland area located in the south-west corner of the site.

The scope of works includes:

- Clearing and excavation of the site.
- Fill placement and compaction.
- Construction of roads, car parks, footpaths and stormwater drainage systems.
- Road signage and pavement markings.
- Chainmesh security fencing.
- Electrical services – power, communications and street, site and field lighting.
- Any other works as detailed in the Specification or on the Drawings

The Principal's expectation is that the works will be completed within twenty-eight (28) weeks from the date of possession of the site.

The tender submissions were evaluated by:

John Radaich – Manager, Engineering
 Shane Harris – Recreation and Cultural Services Manager
 Richard Archer – Donald Cant Watt Corke Project Management
 Thai Truong – Connell Wagner Pty Ltd

Scoring Table

Tenderer's Name	Non-Cost Evaluation Score 40%	Cost Criteria Evaluation Score 60%	Total Score 100%
Griffin Civil	34.85	49.24	84.1
Canning Vale Earthmoving Pty Ltd	27.71	39.03	66.7
CECK Pty Ltd	34.44	39.58	74.0
Curnow Pty Ltd	23.24	60.00	83.22
Wormall Pty Ltd	36.93	54.51	91.4
Yarnell Pty Ltd	27.48	53.48	81.0
Brierty Ltd	38.57	47.56	86.1

Evaluation Criteria Assessment

Tenders were required to provide adequate information in their tender submissions to allow for the scoring of each evaluation criteria.

Summary

Evaluation was undertaken by two internal staff members independently and a third assessment was undertaken by the City's engineering consultant, Connell Wagner. The combined assessment scores supports awarding the tender to Wormall Pty Ltd and consequently officers recommend that Council accept their tender submission for the lump sum price of \$2,453,979 (GST inclusive).

Strategic Plan/Policy Implications**Infrastructure Development**

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

Budget/Financial Implications

Funds are available under account number CW4310 in the 20087/09 budget. \$5,000,000 has been budgeted for the project this financial year. The recommended tender is within the Quantity Surveyor estimate for the Civil Works.

Legal Implications

Section 3.57 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations 1996 refers.

Community Consultation

The advertisement inviting tenders was placed in the 'West Australian' newspaper on 24 May 2008 closing on 17 June 2008.

Extensive community consultation was undertaken through the needs assessment conducted by the YMCA and CARE.

Attachment(s)

1. Tendered Prices –“Confidential”
2. Tender Evaluation Sheet – “Confidential”
3. Compliance Criteria Checklist

Advice to Proponent(s)/Submissioners

Those companies who submitted a tender have been advised that this matter is to be considered at 10 July 2008 Council Meeting.

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

Nil.

17.2 (OCM 10/7/2008) - COOLBELLUP COMMUNITY HUB (8136B) (R AVARD) (ATTACH)

RECOMMENDATION

That Council confirm its decision of 13 December 2007 that it proceed with the development of the Coolbellup Community Hub based on the Concept Plan – as shown in the attachment to the Agenda.

COUNCIL DECISION

Background

Over the past few years the City of Cockburn in conjunction with the State Government and its development partners, the Fini Group, have progressively upgraded the suburb of Coolbellup. The State Government, with the cooperation of the City, developed a new primary school for the locality which was approximately a \$7,000,000 investment. A new club and change rooms were constructed by the City on Len Packham Reserve at a cost of \$1,526,000 and a further \$58,232 spent on upgrading the reserve. An allocation of \$297,000 was also made to improve facilities at Tempest Park. A skate park was completed in 2006 to meet the needs of teenagers in the area at a cost of \$122,474. The value of the Council contribution for landscaping and streetscaping, included within the New Living redevelopment of Coolbellup, was \$465,428 which was matched with a similar amount from the Department of Housing and Works. The total amount spent by the City on capital works alone in Coolbellup since 2000 is \$2,469,000.

The possible redevelopment of the Coolbellup Community Shopping Centre is subject to an independent community and owner process to be carried out by consultants.

To achieve the completion of the upgrade of Coolbellup two outstanding matters require addressing; the upgrade of the Coolbellup community facilities to create a Coolbellup Community Hub, and to seek to address the condition of the Coolbellup Shopping Centre.

Council at its meeting of 12 July 2007 resolved as follows:

- (1) *seek community views on design Options 1, 2 and 3 as attached to the Agenda, in accordance with the consultation process detailed in the report on the Coolbellup Community Hub Development with the consultation process to advise on the level of funding currently allocated to the project;*
- (2) *provide a briefing session to Councillors incorporating the views resulting from the community consultation process;*
- (3) *require a report to be presented to a future meeting of Council incorporating the views resulting from the consultation process; and*
- (4) *consider the budget allocation for the Coolbellup Community Hall project in the context of the review of the Plan for the Future of the District during 2007/08.*

In accordance with requirements of the Council decision of (2) above Elected Members were provided with a briefing on the outcome of the survey and consultation process on 5 November 2007.

Council at its meeting of 13 December 2007 resolved as follows:

- (1) *receive the report on the Coolbellup Community Hub Consultation; and*
- (2) *consider the allocation of funds for the redevelopment of the Coolbellup Community Hub in the context of the development of the Plan for the Future of the District in early 2008;*
- (3) *base the allocation of funds described in (2) above on Option 2 contained in the report on the understanding that areas available for various user groups will be subject to continued consultation as more detailed design is progressed.*

In accordance with the Council decision of 13 December 2007 an allocation of \$3,500,000 was placed on the Plan for the Future of the District and an allocation made in the 2008/09 budget for \$1,000,000 to allow works to begin with the balance of funds required to be provided in the 2009/10 budget.

As resolved by Council decision of December 2007 a number of consultative meetings have been held with stakeholders of the Coolbellup Community Hub Project on developed Option 2 plans. Whilst most of the comments on the plan can be readily addressed at the detailed planning stage, a matter that has been raised primarily by the Coolbellup Community Association is the alterations to be made to the current Centenary Hall to create office accommodation as part of this Option. Officers of the City attended a public meeting of the Coolbellup Community Association held on 9 June 2008. A total of eighteen (18) persons attended the meeting and a motion was carried by a show of hands with approximately 11, as follows:

"This Plan is Not Accepted by the Community due to the Loss of Centenary Hall. The Community would not tolerate the removal of significant Community Asset's such as Libraries and Community Halls."

A copy of the Coolbellup Community Association submission is attached to the Agenda, along with a summary of other submissions received. A number of other matters raised by the Coolbellup Community Association, such as population growth and a wooden floor to be included in the Len Packham clubrooms have been addressed in the report.

Submission

A total of 16 submissions have been made on the draft Option 2 plans for the Coolbellup Community Hub Project a summary of which is attached to the agenda.

Report

In assessing this matter, particular note is made of the Australian Bureau of Statistics figures for Coolbellup for 2006 which show a total population of 4750 with a higher proportion of the population in the 21-30 age bracket (9%) and another in the 61-65 age bracket (6%). This indicates the need for Council in the shorter term to provide services for seniors in the locality and for children as the percentage of the population in the key reproductive years 25- 40 increases.

The establishment of a children's activity area within the proposed development will provide scope for a playgroup and for after school and vacation care service to be provided which is currently not available.

Expansion of the Coolbellup library area will cater for any long term population growth in Coolbellup, particularly for seniors and children.

The Cockburn Library has been expanded in area in accordance with the requirements the City of Cockburn Strategic Plan for libraries. As previously documented the plan shows new greatly improved children's activity areas, improved office accommodation for staff, improved parking, and extended meeting space for the community and staff. Also provided for in the plans is office space for the relocation of the City's Children's Services (including Family Day Care).

Coolbellup is well served with active reserves for sports at Len Packham and Tempest Park, which both have extensive club and change room facilities. There are extensive and quality passive parks in the suburb, of particular note being Hargraves and Rinaldo Parks. These facilities will readily meet the needs of the future residents of Coolbellup.

Landcorp the development arm of the State Government currently has the primary school sites as residential development out for tender. The three sites will produce approximately 150 lots of an average size of 300m² which over time would generate an increase in population of 300 to 350 individuals. Should there be an additional specific aged facility such as that provided at Hale House in Waverley Road there would be an additional population to that described above of about 90 individuals. It ought to be noted that it is usual for such complexes to have a range of facilities provided on site to meet the specific needs of their client group.

Notwithstanding this the proposed facilities and services in the Coolbellup Community Hub have the capacity to meet the needs of the relatively modest increase in population likely to occur in Coolbellup. It is also worth noting that the City is constructing a new specific purpose Seniors Centre on the City's Civic Centre site in Spearwood, which will be available to the seniors of Coolbellup.

A survey of current users of the Centenary Hall facilities and Len Packham Reserve club rooms was carried out. The results show that all groups can be accommodated readily within the proposed new facilities. This is reflected in the usage schedule for the Len Packham, new multi purpose room and the new meeting room attached to the agenda

A wooden sports floor is proposed for the Len Packham Reserve clubrooms to meet the specific needs of groups moving from the current Centenary Hall. A quote for a quality floor has been sourced at \$25,000 plus GST, with all safety and access requirements being addressed.

The revised plans, as attached to the Agenda, show the Cockburn Vocation Centre remaining as is. In earlier consultations the loss of some space for the Cockburn Vocation Centre was a concern for some respondents.

Conclusion

Council needs to make a decision because the building costs are escalating. Whilst there is an element of the community which does not support this proposal, the regeneration of infrastructure is a reasonable thing for Council to do, as was demonstrated by the recent upgrade to Memorial Hall.

There will be no loss of access to communities of public installations as a result of this proposal and, therefore, it is recommended Council adopt and move to works as soon as possible.

Strategic Plan/Policy Implications

Infrastructure Development

- To construct and maintain community facilities that meet community needs.

Lifestyle and Aspiration Achievement

- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

Governance Excellence

- To maximise use of technology that contributes to the efficient delivery of Council's services.

Budget/Financial Implications

Trevor Phillips and Associates - Quantity Surveyors have provided revised costing estimates for this project with escalation costs to March 2008. The budget for the project is currently \$3,500,000 based on Council's agreed Option 2 Concept Plan which shows the modification of the current hall to office space. The revised figure for this option escalated in March 2008 to \$4,104,000 which is an additional \$600,000. Should Council seek to maintain the Centenary Hall and relocate the City's Children's Services to the site (the previously considered Option 1) the revised cost to March 2008 is \$4,693,000 which is an additional \$1,193,000.

Legal Implications

N/A

Community Consultation

There has been extensive community consultation on the project the results of which have been reported to Council.

Attachment(s)

1. Proposed Concept Plan for the development of the Coolbellup Community Hub.
2. Usage Schedules.
3. Responses to community consultation.
4. Submission – Coolbellup Community Association.

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 10 July 2008 Council Meeting.

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

Nil.

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

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

22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

23. CONFIDENTIAL BUSINESS

Nil

24 (OCM 10/7/2008) - 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