

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 17 SEPTEMBER 2009 AT 7:00 PM

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## CITY OF COCKBURN

### MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 17 SEPTEMBER 2009 AT 7:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr L Howlett	-	Mayor
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mrs J Baker	-	Councillor
Mrs V Oliver	-	Councillor

##### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Mrs B. Pinto	-	PA to Directors – Fin. & Corp. Services/Admin. & Comm. Services
Ms L. Boyanich	-	Media Liaison Officer

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.06 pm

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

Nil.

#### 3. DISCLAIMER (Read aloud by Presiding Member)

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



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

Nil

**5 (SCM 17/09/2009) - APOLOGIES & LEAVE OF ABSENCE**

Deputy Mayor Kevin Allen	-	Apology
Clr Sue Limbert	-	Apology
Clr Lee-Anne Smith	-	Apology

The Presiding Member advised the meeting that he had received an email from Kim Burton in relation to the matter that is on the Agenda. The Presiding Member advised that a response was provided to Kim Burton regarding the promised disabled fishing platform on the northern breakwater.

**6 (SCM 17/09/2009) - PUBLIC QUESTION TIME**

**Steven Dunning, Coogee**

*Agenda Item 9.1 – Revised Port Coogee Local Structure Plan*

Q1 At the August Council Meeting it was determined that Council would be seeking further advice from consultants on the proposed revised Port Coogee Local Structure Plan. He believes Council should not rely on advice from any consultant who has been paid for work by the developer as any information provided would most likely be prejudicial. Please advise the names of the consultants and if those consultants have been previously paid for work to support the developer?

A1 Consultants who attended the briefing on Monday night were representatives from Taylor Burrell Barnett, SKM, Uloth and Associates and Praxis. Taylor Burrell Barnett, Praxis and SKM were all engaged as consultants by Australand and were requested to attend in order to provide clarification on a number of issues contained within their reports. Uloth and Associates were engaged by the City of Cockburn to review the Traffic and Parking Study.

Q2 Please advise how many public submissions were received in support of the proposed revised Port Coogee local structure plan, and where those supporters reside?

A2 Council received 10 submissions of support and objections. Due to the lateness of the questions being received, an appropriate response



was unable to be answered in respect to where the individuals reside.

- Q3 Between the time when the proposed revised Port Coogee Local Structure Plan was submitted to Council and now has any Councillor or employee of the City of Cockburn received any favours, gifts or entertainment from the developer or had social contact with the developer which could be interpreted as creating any sense of obligation to the developer? If any Councillor has they should excuse themselves from deliberating over this matter.
- A3 The Gift Register was checked today and a no member of staff had received any gifts or hospitality from the period of time that the proponent made the application to the City for the proposed structure plan change.
- Q4(a) Are the Councillors aware that the Port Coogee land sale contracts clearly detailed the building heights that would apply to the Marina Village precinct?
- A4(a) As the contract of sale is a private document between Australand and the purchaser, the City is not privy to those documents.
- Q4(b) Is the City of Cockburn fully aware of the legal implications of any amendment to the building heights of the Marina Village precinct?
- A4(b) The City is aware of its legal implications in respect to any amendment.

### **Robyn O'Brien, Munster**

- Q1 When the Council was briefed on the proposed amendment of the Port Coogee local structure plan in August, why were the risks or cons not presented, and only the pros?
- A1 The purpose of the briefing to Council was to give an overview of the project and not to give a detailed analysis of the proposal as that was contained within the Agenda papers.
- Q2 Why were the risks and cons not mentioned in the officer's report, why were these not included?
- A2 The officer's report clearly indicated the issues and indicated how the officers considered that these issues should be addressed.
- Q3 Can you spell the word Uloth and when were they engaged by Council?
- A3 The spelling is U L O T H. The exact date when they were engaged is unknown and therefore will take this on notice. However, it is likely



that they were engaged by the City in early 2009.

Q4 Was Uloth and Associates giving an independent review of the officer's report?

A4 Uloth and Associates was engaged to undertake an independent review of the traffic and parking study, as Council and Staff did not believe it had the necessary expertise to undertake that analysis. Uloth attended Monday night's briefing to give an independent review of the traffic and parking study.

Q5 On page 4 of the Agenda paper, the recommendation states, "Council delegates to the Manager, Statutory Planning authority to approved Detailed Area Plans in the knowledge comprehensive Builtform Guidelines are to be prepared and lodged with the City within four(4) months of the approval of the Revised Local Structure Plan and Marina Village Master Plan (for consideration by Council)'. Why would the Councillors want to agree to the officer's recommendation which delegates authority to the Planning Department for such an important issue such as removing the R-Codes from buildings. Shouldn't this matter come back to Council as it is the Councillors that should be making such decisions?

A5 The Elected Members will be considering this matter later tonight.

#### **Ducica Pivac, Coogee**

Q1 If this late controversial submission is approved by the Council will the same apply to the rest of us, if we are to make the same submission to go higher?

A1 The proposal before Council is to consider amendments to a Local Structure Plan, within which is a component which is a height plan specifying the heights within the area. Any development including development undertaken by Australand will then be required to comply with that height plan. Similarly, any private residential owner would also have to comply with the height plan.

Q2 Has the Council given the developer a completion time for already approved high rises which were approved 4 years ago and what is that time?

A2 The developer has sought planning approval for a number of multi-unit developments on the site. I have no knowledge of any proposals being considered in 2004. The oldest proposal for a multi-unit development within Port Coogee was in late 2007, and that was in accordance with the height plan submitted.



- Q3 Given the environmental problems, bad publicity and low land sales does the Council have procedures in place, if this development became a 'white elephant' and what will they do about it?
- A3 The matter currently before Council is a revised Local Structure Plan which actually governs development of the site. If this land was transferred to another landholder, then that landholder would be required to comply with the provisions of the current approved Local Structure Plan and Council's statutory provisions under its Town Planning Scheme. The applicant can seek from Council to change that Local Structure Plan which is no different from the current approach by Australand.

### **Simon Taylor, Coogee**

- Q1 In early 2006 Australand made a presentation to the Coogee Beach Progress Association showing diagrams and cross-sectional views of what they were proposing as the Council of the day would not support it. Australand stated at that presentation the existing residents visual amenity would not be impacted by this proposed change. The latest cross section of Australand's consultant's report, Taylor Burrell now shows the builtform extending beyond the original agreed point. There is also approximately 4m of fill added to Lot 749. Any 3 storey building there now is effectively a 5 storey building. How has this occurred?
- A1 In relation to Lot 749 there is no change proposed to the height limits to the property from that previously approved by Council. The height plan shows two heights over different portions of the subject lot. A 3 storey height on the southern end of Lot 749 and a 2 storey height limit on the northern end. This was exactly the same as what was approved by Council in their 2007 structure plan. In respect of the amount of development on the site, under the existing structure plan there is no limitation as to where buildings can be constructed on that property. Regarding the issue about fill, the approved Local Structure Plan does give an indication in terms of the level of fill that is permitted. As part of that which was approved by Council, it indicated that in the case of Lot 749 that up to 2m of fill would be acceptable on that location. Council officers have attempted to check through previous contours to get an indication of the level of fill. Generally the level of fill is around the 2m mark. However, it is acknowledged that in order to create a level site for development that there are some areas in the north that are potentially over that 2m of fill. It should be noted that there is no subdivision proposal over that particular portion of land and therefore no subdivision clearance to comply with. Council officers have asked the question of Australand to provide details of the amount of fill that had been provided on the land, who have indicated they will be forwarding this information shortly.



- Q2 When did this change occur?
- A2 There has been no change to the boundary of land owned by Port Catherine Developments Pty Ltd since that presentation. The presentation only gave an indication of what is being proposed on Lot 749 and that there is no restriction of where the development can be located.
- Q3 Was this a misrepresentation by Australand?
- A3 Council cannot comment on this as it has no details on the presentation or comments made by Australand.
- Q4 Will Council sue Australand?
- A4 As previously indicated the Council is not in a position to take any action as it has no details on the presentation or comments made by Australand.
- Q5 If there is no broad community support why is this proposed amendment being considered?
- A5 Council has the ability to consider height guidelines in relation to the Port Coogee development. Any comments contained within that have to be considered in relation to clause 21 of DA22 as contained within the City's Town Planning Scheme No. 3 and the State Government's Coastal Height Policy guidelines. These comments and Council's consideration would be referred to the WAPC for the Commission's determination.
- Q6 If 11 out of 17 opposed the development, how does this relate to community support?
- A6 As indicated before the number of submissions does not indicate broad community support or opposition for the proposal. Given the lack of response this would tend to indicate that building height is not an issue otherwise the City would have received significant community submissions in relation to building height.
- Q7 Why was it mentioned in the Agenda two meetings ago that there was broad community support?
- A7 Unable to provide a response without viewing the previous Agenda papers. This question will have to be taken on notice.

**Daryl Smith, Coogee**

- Q1 Can Council defer making a decision tonight until such time adequate controls and conditions are applied in a number of areas, e.g.



Ensuring there are adequate view corridors in the builtform guidelines and other issues to be addressed?

- A1 Council has the opportunity to defer the matter if they determine it appropriate.

**Mr Hislop, Attadale**

- Q1 I am building a house on the border of Orsino Boulevard, Coogee. Under its current form, there is some 5,000 sq.m .of commercial space available. If the plan is left as it is will there be enough critical mass of people for those businesses to support. Is it important for those buildings to be built for such purposes?

- A1 The current approved Local Structure Plan includes provision for approximately 5,000 sqm of commercial floor space however this does not include any floor space provision for food and beverage outlets. The proposed Local Structure Plan details the provision of 9,000 sqm of commercial floor space including food and beverage outlets. The reason for the increase in commercial floor space is in order to provide for a greater chance for the centre to be successful. The increase in residential numbers does help for such activities to be successful. The question is a lot more complex and would be happy to explain the economic analysis that has been provided.

**Andrew Sullivan, South Fremantle**

- Q1 If the marina waterfront is going to be or should be the most active of all the public places in Port Coogee, why is it that we are not going to first prioritise this inadequate 9,000 sqm to be fronting all of that waterfront? Why is it that only 50% of that north facing waterfront, has to be retail and the other 50% can be residential?

- A1 In regard to the activation of the marina frontages, the City needs to look at a staging approach to the provision of commercial floor space, because there is only going to be a limited amount of retail that can be supported in the initial stages of the development. In the early stages of the development of the Marina Village the concept is to ensure there is a sufficient critical mass in the south eastern corner of the marina itself, which would anchor any further commercial expansion. The revised Local Structure Plan identifies these objectives, which shows that the land uses on that southern peninsula, along the frontage facing on to the marina, being mixed use. The development having been designed in such a way that the ground floor units can easily be converted into active commercial or retail functions as economic demand for commercial floor space increases in those areas. These provisions would enable all of the ground floor units fronting the marina to ultimately be active commercial or retail floor



space.

**Robyn Scherr, Coogee**

Q1 Just as there are a number of empty shops which is a great concern for the developer, how many empty apartments would there be? Sometime ago there was advertising the 'Asperia' apartments – is there any indication as to whether that building is going to go ahead? Are there any apartment buildings going ahead at this moment?

A1 Whilst there have been a number of development approvals granted for the multi-use or apartment buildings within Port Coogee, at this stage there has only been one building licence issued. As with any development the timing of the construction is up to the developer and this is generally based on commercial demand. It is a concern to the City when the proposed development is not undertaken. Unfortunately, like the residential market Council is not in a position to force private land owners to actually build. What we are in a position is to ensure that when the circumstances are there for a development to occur when there is sufficient market demand, for it to occur in the best possible form

Q2 How wide is the waterfront park?

A2 Not in a position to give the exact dimensions of the proposed waterfront park but the area of the park is approximately 3,000 sqm.

Q3 Will the difference between a 5 storey building and an 8 storey building have any significant difference for the wind protection factor?

A3 Based on the information provided the answer is yes. It would depend on how much of the area you are seeking to provide with wind protection. It should be noted that the area proposed to be shielded from adverse weather is not limited to just the proposed waterfront park.

**Zoe Inman, Coogee**

Q1 The area south of the development is proposed to have higher building height and no longer to be commercial. Has the developer and Council considered how this is going to impact on the parking for the beach area?

If this building height is going to be increased, can the Council please ask only one question of the public - not a 126 page structure plan which the public will have no idea of - does the public agree with the increased height?



A2 I am presuming that you are referring to the development in the southern portion of the overall site, which is on Lot 749. In answer to your question, as I have previously stated, there is no proposed change in the height from what is currently approved by council to what is currently being proposed under the revised Local Structure Plan.

Whether it be commercial or residential any development is required to provide sufficient car parking on-site. In the current approved Local Structure Plan it indicates on-street car parking being provided on the road side adjacent to the foreshore reserve. This is exactly the same as being proposed on the revised Local Structure Plan (i.e. on-street car parking being provided opposite the foreshore reserve).

Q3 If there is no change in heights and this area changing from commercial to apartments, and as can be acknowledged that not everyone in the community are able to workout what is in the proposed structure plan because there are a lot of people thinking the height change is there.

A3 As mentioned earlier it clearly shows on the height plan the heights for the southern portion of the site under the current Local Structure Plan and the proposed Local Structure Plan are identical in terms of the location of where those heights actually apply. At this stage the developers have not made any determination as to whether there would be apartments on that site or whether the site would be developed as single residential lots. Essentially it would be up to the landowner who owns that lot as to what type of residential they actually proposed.

Q4 How many more structure plan changes are they going to have?

A4 There is no indication as to how many changes there may be. What the community needs to take into consideration is that this is a project that has a 20 to 25 plus year life span and there are always going to be changes that will be undertaken over such a long time in terms of development. Those changes may be driven due to economic changes, technology changes and also changes driven by the State Government and Local Government policies.

### **Dan Scherr, Coogee**

Q1 Why is the Deputy Mayor Kevin Allen not present? Can any Councillor here remember any of these questions being asked before the Port Coogee development was approved.

A1 Yes.



**Robyn O'Brien, Munster**

Q1 At the August Council Meeting Deputy Mayor Allen proposed an amendment to appoint an independent consultant to advise on these many amendments? Did this happen and was this minuted, as the Chief Executive Officer advised the meeting that it would cost a considerable sum of money?

A1 The proposed amendment was not adopted by Council and therefore the appointment of an independent consultant was not specifically required. The Council decision only required Staff to arrange a briefing for Elected Members on this matter. That workshop was held on Monday (14 September 2009). At that particular meeting there were a number of consultants present. Questions had been specifically asked of them by the Elected Members. Those questions were put in writing by the Elected Members to the Director, Planning and Development who then determined which consultants needed to attend to provide the details needed to satisfactorily answer that question. As previously indicated Council had already engaged Uloth and Associates to provide independent advice on matters pertaining to traffic and parking which was a considerable issue to the Elected Members. The workshop held on Monday was in accordance with Council's decision.

Q2 Was the above documented in the Minutes of the August Meeting?

A2 The process of writing the Minutes of the Council Meeting is not to record verbatim the debate on the items that are considered by Council. It is to record the original motion, any alternative considered as well as those matters pertaining to public questions. The Minutes of the August Council Meeting can be found on the City's web site.

Q3 How would the public get to know the Councillors questions of the consultants and the answers and all the information that the public needs to know?

A3 Elected Members present here tonight take all matters into account. They are required to from all points of view in terms of the stakeholders, including the community. It was a Council resolution that the workshop be held for Elected Members.

**Arie Hol, South Lake**

Q1 Are there any studies, investigations or reports past, present or future which address the change on the impact of land use in the Port Coogee area on contaminated groundwater?

A1 The issue of contaminated groundwater is something that is being dealt with by the Department of Water and the Department of



Environment and Conservation (DEC). It is not an area that Council has any jurisdiction over. There have been studies undertaken by Australand and the City is aware that Australand is appealing against the DEC's determination based on the information that their consultants provided. However, it is a matter of the jurisdiction between the DEC and the Department of Water.

As part of the State Government Agreement the land was transferred to Port Catherine Developments and one of the issues was to ensure that there was no contamination of that land that was transferred to Port Catherine Developments. There is some indication that there was some contamination but the site had actually been remediated. There is an issue that the groundwater flowing through the site may have some level of contamination. Much of that contamination is likely to be nitrogen and phosphorous which may have come from the market gardens and hence the condition was applied to ensure that the groundwater was prevented from entering the marina due to concerns for potential algae blooms. The Department of Water has given permission to Australand to extract that groundwater to remove it from the marina system. The intention was that the groundwater would be used for reticulation for public open space as well as for private gardens. Now the DEC has indicated that it cannot be used for that purpose. The Council is ensuring that it keeps up-to-date with what those issues are with the Departments and with Australand.

Q2 What are the likely future implications for the City of Cockburn and its residents, its ratepayers and the people who use the public precincts of Port Coogee in regard to the chemicals that have not been mentioned.

A2 The City has been undertaking across the district for quite sometime a detailed water analysis of all the bores that exist at all locations across the City. To ensure that the water being extracted from any of those locations including previously contaminated sites do not contain traces of substances or chemicals that have potential to harm either health or the environment. So for instance areas that were contaminated which were groundwater sources, such as the old Fremantle Tip, which is on the Fremantle side of Council's boundary and is leaking a substantial amount of contaminated water into the ocean. As a result in North Coogee there are restrictions in place preventing the extraction of groundwater to be used in the public open space. In the case of Port Coogee the developer had engaged the firm, ERM to monitor the water quality across the site. As it was pointed out earlier there were a couple of locations where the soil had been contaminated. That soil had been remediated. What needed to be ensured was that the water quality and the subsequent groundwater did not also contain any heavy metals and the like. The City staff received a copy of the water analysis recently for which the City is undertaking its own independent analysis, but based on a preliminary analysis it does not appear that there are any materials or contaminants that would exceed public



health standards or cause damage to the environment. The City is doing its own independent monitoring to ensure that areas being used for public open space in future do not contain materials or have any contaminants used on it that would cause any damage to public health or the environment.

Q3 From the information I have been receiving, there seems to be two plumes of contamination, one under the ocean and one under Port Coogee. What are the likely effects of the change of land uses regarding stormwater run off in the next 20 or 30 years? If these details are not locked into place these will move and if there is a change in the way stormwater is handled on the land area around Port Coogee it is going to have a likely effect that these plumes will move. If they move inland what about the people who have bores and the public parks that are currently being watered with groundwater now?

A3 The groundwater contamination being referred to is predominantly contamination coming from previous agricultural uses that occurred to the east of the site. That is the primary source of contamination identified today. High levels of nutrients in the water had the potential of being concentrated within the marina and hence could cause algae blooms. As the groundwater flows are towards the ocean there is no likelihood that the stormwater retention system being installed would make the groundwater flow back up hill.

Q4 What about the chemicals from the skin sheds and the tanneries that existed uncontrolled and not monitored for all those years which leaked into the ground? What likely effect would this have on the Cockburn Coast and Port Coogee?

A4 A response can be obtained either after the meeting or a subsequent meeting.

### **Ducica Pivac, Coogee**

Q1 Can the Council write to each individual owner to establish their views on the matter (and would be willing to pay whatever the cost may be for this to happen)?

A1 Thank you very much for the offer.

## **7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS**

Nil



## 8 (SCM 17/09/2009) - PURPOSE OF MEETING

The purpose of the meeting is to review the Revised Port Coogee Local Structure Plan and Marina Village Masterplan.

## 9. COUNCIL MATTERS

### 9.1 **(MINUTE NO 4055) (SCM 17/09/2009) - REVISED PORT COOGEE LOCAL STRUCTURE PLAN - LOCATION: PORT COOGEE - OWNER: AUSTRALAND HOLDINGS LIMITED - APPLICANT: TAYLOR BURRELL BARNETT (TOWN PLANNERS) (9662) (T WATSON/J RADAICH) (ATTACH)**

#### RECOMMENDATION

That Council:

- (1) resolve to approve the Port Coogee Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report prepared by Taylor Burrell Barnett Town Planners and Sinclair Knight Merz (Transport Report) on behalf of Australand pursuant to the provisions contained under Clause 6.2.14.1(b) and 6.2.14.3 of the City of Cockburn Town Planning Scheme No. 3 (in the case of the Port Coogee Revised Local Structure Plan), subject to the following:
  1. Pedestrian and bicycle access being maintained around the marina side of the 'Icon' building to be developed at the western end of the southern peninsula, this access to be permanent if the land in question is to be privately owned in which instance the City is to be granted a public access easement for the purpose of protecting public accessibility in perpetuity.
  2. The hotel required in accordance with Provision 20 under DA22 in the City's Town Planning Scheme No. 3 being developed on land immediately adjacent to the marina (that is, on either Chieftan Esplanade or the north side of the southern peninsula) and designed to the satisfaction of the City.
  3. The design and development of 'The Corsos' being undertaken in a manner that has equal regard for the underlying role of the following three (3) elements:
    - (a) the establishment of physical and visual links across the southern peninsula;
    - (b) for the purpose of clearly breaking the extent of building bulk and frontage across the southern peninsula; and

- (c) for providing sufficient wind protection to the leeward side of the peninsula;

to the satisfaction of the City in the preparation of the Builtform Guidelines, Detailed Area Plans and at Development Application stage.

4. The Builtform Guidelines for the Marina Village addressing and including sections dealing with the following to the satisfaction of the City:
  - (a) 'Crime Prevention Through Environmental Design' (CPTED) and
  - (b) Servicing and Waste Management.
5. The Builtform Guidelines being presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
6. The initiation of an Amendment to Town Planning Scheme No.3 deleting reference to Provision 10 in DA22. The Amendment process is to be commenced within four (4) months of the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
7. The following minimum parking provisions be allowed for in the Port Coogee Revised Structure Plan:
  - o Marina Village residential permanent on-site - 2188 bays.
  - o Marina Village residential visitor on-site - 121 bays.
  - o Marina Village residential visitor on-street - 122 bays.
  - o Marina Village Non residential public parking - 705 bays.
8. A staged Parking Management and Strategy Plan being presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
9. Strategic taxi ranks and pick-up and set-down locations be identified and provided to the satisfaction of the City during the design of road reserves for the Marina Village.
10. The management of parking so as not to cause problems for residents in Stage 4A and 5, the details in respect of which are to be presented to the City for consideration



and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.

11. Australand be responsible for the provision of traffic signals at: Pantheon Avenue and Cockburn Road, Orsino Boulevard and Cockburn Road and Pantheon Avenue and Orsino Boulevard, and to enter a suitable arrangement for their provision to the satisfaction of the City.
  12. Australand to address and resolve the negative impact of any vehicle queuing on Pantheon Avenue residents when traffic signals are installed on Cockburn Road, to be presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
  13. All road carriageway widths be a minimum of 6.0 metres for 2-way traffic.
- (2) delegate to the Manager, Statutory Planning/Co-ordinator, Statutory Planning authority to approve Detailed Area Plan's in the knowledge comprehensive Builtform Guidelines are to be prepared and lodged with the City within four (4) months of the approval of the Revised Local Structure Plan and Marina Village Master Plan (for consideration by Council);
  - (3) forward the amended Port Coogee Structure Plan to the Western Australian Planning Commission for endorsement (on the basis of point 1) above; and
  - (4) advise the applicant and submissioners of Council's resolution to approve the amended Structure Plan and refer it to the Western Australian Planning Commission for endorsement (on the basis of point (1) above.

#### **COUNCIL DECISION**

MOVED C/r H Attrill SECONDED C/r I Whitfield that Council adopt the recommendation subject to the following amendments:

1. inclusion of the following additional condition 14 to sub-recommendation (1):
  14. The Structure Plan be modified by deleting the Building Height Plan (Figure 11), including all references relating to building heights specified within that Building Height



Plan, and that it be replaced with the Building Height Guide Plan and the references relating to building heights as contained within the currently approved Port Coogee Revised Local Structure Plan, including the requirement for building heights to comply with the provisions of DA 22 of the City's Town Planning Scheme No. 3.

2. delete sub-recommendation (2) and substitute the following:
  - (2) advise the applicant of the need to amend the Revised Local Structure Plan documents to reflect the requirements of the above conditions (where applicable or necessary) to the City's satisfaction.

**MOTION LOST 2/5**

MOVED Cllr H Attrill SECONDED Cllr I Whitfield that Council adopt the recommendation subject to the following amendments:

1. Delete Condition 5 of sub-recommendation (1) and substitute the following:
  5. The Builtform Guidelines being presented to the Council for consideration no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council. Until Council approves the Builtform Guidelines, the R160 coding across the Marina Village is to remain in place. Following approval of the Builtform Guidelines, Council will consider the R160 coding removal and amendment of the Revised Local Structure Plan.
2. Delete sub-recommendation (2); and
3. Sub-recommendations (3) and (4) be renumbered (2) and (3) respectively.

**MOTION LOST 2/5**

MOVED Cllr T Romano SECONDED Cllr C Reeve-Fowkes that Council defer a determination on the Port Coogee Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report to allow for the following:

- (1) a meeting to be held between Elected Members and Senior Executives of Australand, to clarify their proposed revisions to the Local Structure Plan and their vision for the overall development of Port Coogee; and



- (2) the City's Officers to present a briefing to interested members of the community giving an overview of the Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report, in particular covering the following issues:
1. Building heights;
  2. Traffic and parking;
  3. Reallocation of commercial floorspace.
- (3) the meeting and briefing referred to in (1) and (2) above be conducted as soon as practicable.

**CARRIED 5/2**

### **Reason for Decision**

Council considers that it needs a face to face meeting with Senior Executives of Australand to clarify a number of issues and concerns, ie:

- Height restrictions at the southern extent of Lot 749 (formally neighbourhood centre)
- Extent of ground floor units in the vicinity of and adjacent to marina being allocated to commercial and residential.
- Insufficient marking for single residential units.
- Reduction in the number of boat pens based on original Structure Plan;

that have been raised by residents and members of the community in respect to the changes proposed to the Local Structure Plan. Council also believes that such a meeting would enable the Elected Members to gain a clearer understanding of Australand's vision for the overall development of Port Coogee.

Given that some members of the local community still have concerns about the proposed changes and whilst information has been provided by Council Officers that addresses these concerns, Council considers that the City should make arrangements for that information to be provided to those interested members of the community. This could be best undertaken by the City's Officers providing a public briefing which informs the community how the issues of building heights, traffic and parking, as well as the reallocation of commercial floorspace, have been addressed.

### **Background**

In March 2004 the Council adopted the Port Coogee Local Structure Plan in conjunction with the local Scheme Amendment providing for Development Area 22. DA22 sets out development requirements for Port Coogee. The amendment was gazetted in June 2005.



Subsequent to initial adoption, the Structure Plan has been amended on a number of occasions. The Structure Plan was amended in June and August 2005, July 2006, and most recently following support for changes adopted by Council in September 2008.

Since September 2007, however, and notwithstanding the minor changes adopted by Council in September 2008, representatives of the City's Planning and Engineering Directorates have been involved in on-going discussions with Australand and its consultants' regarding numerous more significant changes to the Local Structure Plan. The focus of the changes is the future development of the Marina Village.

The culmination of the discussions resulted in the submission of the Port Coogee Revised Local Structure Plan in November 2008. At the same time, the Marina Village Masterplan and Port Coogee Transport Report were lodged with the City.

The purpose of the Marina Village Masterplan is to:

- Establish a framework for the development of the Marina Village.
- Build upon and provide additional detail to the existing Master and Structure Plan Reports for Port Coogee, in order to provide more information regarding the Marina Village.
- Develop broad principles for urban design guidelines that will ultimately lead the implementation of the development.

The Masterplan compliments the Port Coogee Local Structure Plan (LSP) to provide more illustrative detail to the Marina Village component of the development and present a concept plan as an intention of how the LSP might be implemented.

Both the Port Coogee Revised Local Structure Plan and the Marina Village Masterplan have been prepared on behalf of Australand by Taylor Burrell Barnett as the head consultant.

The purpose of the Port Coogee Traffic Report is to provide transport and parking advice for the Revised Local Structure Plan, with particular emphasis on the more substantive changes proposed within the Marina Village. The document is to be read in conjunction with the Revised Local Structure Plan and Marina Village Masterplan.

The Traffic Report has been prepared for Australand by SKM.

The Port Coogee Revised Local Structure Plan, the Marina Village Masterplan and the Port Coogee Traffic Report were tabled for Council's consideration at its meeting on 13 August 2009. The Council resolved to defer determination of the Revised Local Structure Plan and associated documents to a Special Meeting of Council in



September 2009. The reasons for deferral relate to the complexity of the proposal and the importance of the project to the City of Cockburn.

A briefing on specific queries that the Elected Members have in respect to the revised Plans has been scheduled for Monday 13 September 2009, with a Special Council meeting to be held on Wednesday 17 September 2009.

### **Submission**

The Port Coogee Revised Local Structure Plan proposes the following main changes:

1. The extension of the Marina Village Precinct to include:
  - Lot 786 Orsino Boulevard; and
  - the land on the southern peninsula currently outside the village and zoned Residential R80.
2. The relocation of the Southern Neighbourhood Centre to the Marina Village.
3. An increase in dwellings numbers. In this regard, the amended Structure Plan approved in 2006 provided for 1630 dwellings. The revised Local Structure Plan provides for just over 2300 dwellings. The majority of the increase in dwelling numbers is within the Marina Village (an increase of approximately 650 dwellings).
4. Removal of the R160 density previously shown across the Marina Village.
5. The replacement of the Building Height "Guide" Plan in the Local Structure Plan with a 'Building Height Plan'. The Building Height Plan shows a general increase in building heights within the Marina Village, including the southern peninsula when compared with the Building Height 'Guide' Plan.
6. Comprehensive parking provision within the Marina Village.
7. The introduction of a Waterfront Park within the Marina Village (4701 m<sup>2</sup>).
8. An increase in the public boardwalk area, changes to public access links and minor road changes.
9. Reconfiguration of the boat pen layout and boat pen sizes within the Marina.
10. Relocation of the community purpose space.



11. An increase in density across the northernmost street block (dry land residential) from R25 – R35.

In support of the proposed changes, the Applicant states the following:

*In the context of Port Coogee and the wider Cockburn region, the Marina Village is to be a significant public asset which will play an important role as a regional attractor. The co-location of community facilities and well designed public open spaces, including a new Waterfront park, will provide important recreational spaces for people living, working in and visiting the area.*

*To realise this potential, however, the Marina Village requires a critical mass of residential population to support the various activities envisaged, including; retail, commercial, community and residential uses, and to contribute life, vibrancy and a sense of safety to the area as well as to support local businesses.*

*To achieve the necessary critical mass of residents, the proposed LSP provides a framework for the development of residential apartments as the primary housing type within the Village Centre Precinct.*

*The proposed building heights are intended to facilitate development that brings more residents to the Marina Village Precinct, which will provide many benefits to the quality of the place, including:*

1. *Activation, vibrancy and safety – bringing a population density that activates the streets, achieves vibrancy and enhances the feeling of safety by providing passive surveillance and a ‘people presence’.*
2. *Housing diversity and choice - increasing the scope for residential opportunities via housing diversity and choice in apartment types and sizes.*
3. *Greater demographic diversity - through the provision of housing diversity, encouraging demographic diversity within the residential population in the Marina Village in terms of household size, composition and age groups.*
4. *Support for Marina Village local businesses – It is critical to ensure the Marina Village has a catchment population to support a good range of local businesses, particularly those shopping, food and beverage businesses that are envisaged for the enjoyment of the wider community. Such*



*businesses cannot be sustained without an adequate permanent population base.*

5. *The creation of Waterfront Park – Waterfront Park is proposed in the location of a former building on the waterfront. The building edge has been ‘pulled back’ from the Marina edge allowing for the creation of a substantial open space in its place. The park’s sloping lawn will make for a ‘natural amphitheatre’ and the perfect focal point for performances, celebrations and other community events and gatherings. The built form density ‘displaced’ by the park will be replaced in the increased heights of the buildings on the southern side of the peninsula.*
6. *Wind protection - a relatively well protected open space can be achieved by providing building height. As previously discussed with Council, wind amelioration is provided for a horizontal distance by a factor of 5x the height of the building. This will be of particular value to Waterfront Park and the mixed use land uses around the waterfront, where it will be important to create a comfortable environment in the public realm. Creating sheltered public spaces will also contribute to the provision of optimum opportunities for a sustainable food and beverage precinct.*

*Establishing the Marina Village as a community and recreational asset will be important in establishing a sense of place. Density is necessary to create sufficient population to facilitate the creation of activated streets and provide opportunities for cafes, restaurants, retail and community uses to be supported. Density in appropriate locations can create great places to live and achieve wider community aspirations by creating vibrant places.*

### Consultation

Upon receipt of the Revised Local Structure Plan, Marina Village Master Plan and Transport Report, the documents were reviewed internally by the City’s Planning and Engineering Directorates. Following this, a period of comprehensive consultation was undertaken. For the period 3 February to 3 March 2009, all three documents were made available for inspection and comment by the public.

Consultation included the following:

1. Newspaper ads in the Gazette and Herald commencing 3.2.09, then 10.2.09 and 17.2.09.
2. Details on the City’s website, including:



- a media release;
  - an item in the 'news' section;
  - a separate Port Coogee link connecting users to the Revised Local Structure Plan, Marina Village Masterplan and Transport Reports;
  - an on-line submission form; and
  - an online, downloadable submission form (hard copy)
3. The sending of letters to 180 Port Coogee property owners.
  4. Advising 11 relevant State Government agencies and or infrastructure providers.
  5. The erection of two (2) 'Static' displays, one at the City's Phoenix Library, the other at Phoenix Shopping Centre.
  6. An Elected Members newsletter posting.

During the consultation period, Australand also held a Community Open Day on-site (21 February 2009).

One of the pleasing aspects of the consultation was the extent to which the City's website was accessed for the purpose of gaining information on the proposed changes. The Port Coogee page was accessed 661 times for the period 3 February 2009 to 3 March 2009. Additionally across this timeframe there were 76 'Returning Visitors'.

In response to the consultation, the City received 39 submissions. Of these, 10 either support or raised no objection to the Revised Local Structure Plan and related documents. The remaining 29 submissions either objected to, or raised concerns in respect of what is proposed. A summary of all submissions can be viewed in the attached 'Schedule of Submissions'.

In summary, the majority of objections and/or concerns related to the following matters:

1. Increase in development density (dwelling numbers) and building heights.
2. The impact of the proposed changes on views and property values.
3. Traffic and parking concerns.
4. Relocation of the Local Centre into the Marina Village.
5. Claims of misrepresentation at the time of property purchase.
6. Impact of wind/planning for wind.
7. The changes will result in an increase in crime and anti-social behaviour.

The above list descends in order based on the number of times an issue was raised either specifically or generally in the submissions



received. Very clearly, the three (3) areas of most concern arising out of consultation relate to dwelling numbers and building heights, impacts on property views and values, and traffic and parking concerns or considerations. It is noted quite a number of separate points were made on one or a number of occasions.

The City's comments in respect of the main points above will be largely covered in the following section. The Schedule of Submissions has been referenced to highlight where this occurs. Where relevant or necessary, additional comments are provided in the Schedule of Submissions in respect of one-off points or concerns. This approach is particularly applicable to three (3) larger submissions received by the City.

## **Report**

Following the completion of consultation and the review of all submissions, the City's planning and engineering directorates focussed on identifying the City's position in respect of the changes proposed, including concerns and/or issues arising out of the consultation. The City's standings from Planning and Engineering perspectives were then put to Australand and its consultant team. The following comments provide an appreciation of the dialogue that has transpired in respect of the main concerns or issues, including resultant outcomes or changes.

### Dwelling Density (Numbers) and Building Heights

Concerns raised in response to consultation in respect of the proposed increase in density/dwelling numbers are not shared. Rather, concern is expressed from a planning perspective in regard to how these changes will be effected in a manner that contributes to the overall success of Port Coogee as a place to live, work and/or visit.

Accordingly, the position of the applicant and developer is accepted. That is, a certain critical mass in terms of local population is necessary to support local commercial development and the lifestyle always envisioned for the project. The manner, in which this occurs, however, particularly for the purpose of ensuring a diversely strong future population, needs to be determined.

Whilst additional dwelling numbers are supported, it is qualified on the basis that a far greater mix of dwelling type, design and size take place. Whereas a largely generic or predictable range of accommodation types has been expected to date, or certainly that has been the perception, there is an expectation that if an increase in dwelling numbers is to take place, there equally needs to be an increase in their mix.

To support the now identified intent for a stronger mix of dwelling type, the Design Philosophy in the Structure Plan has been amended to



include the following objective – *To create density and a diverse residential population that will help to bring vibrancy and activity to the Marina Village.* In addition, the Marina Village Masterplan, to be read in conjunction with, and supporting the Structure Plan, has also been amended to include a section titled *Objective for Housing in the Marina Village.* The content of this section reads:

*In addition to the variety of densities provided for within the LSP, the following overarching objective applies to all development within the Marina Village to encourage diversity in dwelling size and design:*

*A densified and diverse residential population will help to bring vibrancy and activity to the Marina Village.*

*To this end it is a key aim to encourage a diverse residential population in the Marina Village, in terms of household size, composition and age groups, through the provision of a range of living options.*

*Diversity of housing product may be provided in a number of ways, for example, designation of a particular precinct area, development site or a building within a site for a particular residential typology, or mixing different products within buildings.*

*Built form control mechanism(s) will be formulated with due regard to the following objectives:*

- *Achieving diversity in dwelling size and design, to accommodate different household types, including:*
- *1-2 bedroom apartments of up to 80 m<sup>2</sup> - more affordable accommodation for single persons, young professionals and retirees.*
- *2-4 bedroom apartments of between 80 and 200 m<sup>2</sup> - family friendly apartment living.*
- *2-4 bedroom high end luxury apartments.*
- *The juxtaposition of dwelling types throughout the Marina Village will be considered further through the Built Form Codes or guidelines, DAPs and subsequent development applications.*
- *Regardless of dwelling types, residential design should strive to create high quality developments, particularly on landmark sites, through high quality design and architecture.*

As a precursor to the development of more buildings comprising a strong mix of dwelling types, design and size, Australand in a pre-lodgement meeting has presented initial plans for the development of Lot 786. The plans provide for a diversity in apartment types and sizes



ranging from 40 m<sup>2</sup> 'bed-sits' to 120 m<sup>2</sup> three (3) bedroom apartments. The proposal accommodates these dwellings in 'grouped' and 'multiple' formats, with scope for "live-work" arrangements where dwellings abut the street.

The proposal for Lot 786 represents the new design philosophy, and to this end is in stark contrast to that already approved by the City for Lot 785 adjacent to the south. This development comprises 38 dwellings, all approximately 138 m<sup>2</sup> in size and aimed largely at one section of the residential property market.

In terms of building heights, the following comments are made:

Provision 21 in DA22 (Town Planning Scheme No. 3) provides for building heights across the currently delineated Marina Village up to eight (8) storeys. Specifically, *Within the Marina Village, and local centre areas coded R80, development is restricted to a maximum of eight storeys.*

The current Local Structure Plan includes a 'Building Height Guide Plan' showing heights in the Marina Village ranging from 2-8 storeys (and the majority of street blocks shown for development up to five (5) storeys). This was included *as a guide to represent the building heights likely to occur within the framework of DA22.* All building heights could, however, be up to eight (8) storeys based on Provision 21.

The Revised Local Structure Plan now includes a 'Building Height Plan'. This plan shows the change in heights referred to during consultation, essentially a general increase in building heights across the Marina Village. In every instance, however, the heights shown are either below or at the 8 storeys permitted by Provision 21.

In addition to depicting building heights, the Building Height Plan has been notated to specify a minimum four (4) storey requirement on the two lots abutting the south side of proposed Waterfront Park. Whilst the notation provides the qualification that four (4) storeys is required unless an alternative solution to wind amelioration is provided, it is expected the lots will be occupied by buildings at least four (4) storeys in height for the purpose of wind protection (to Waterfront Park).

Under Provision 21 in DA 22, *The height of buildings in residential R60 and R80 areas should be limited to a maximum of five storeys (and not exceeding 21 metres) in height. Higher structures up to a maximum of eight storeys (and not exceeding 32 metres) in height may be permitted where, amongst matters including design and environmental considerations, there is broad community support for the higher buildings following a process of full consultation.*



The extension of the Marina Village to include the R80 zoned land on the southern peninsula equally extends the eight (8) storey Village height restrictions across this land. This simple extension, it could be argued, provides for increased height where consideration of the listed criteria would have otherwise been required. Given this and despite heights less than 8 storeys shown on the Building Height Plan for some of this land, an assessment against the applicable criteria in the Town Planning Scheme is considered appropriate.

The criteria deal with, or require the following:

- broad community support;
- builtform, topography and landscape character;
- the location being a part of a major tourist or activity node;
- the amenity of the location (coastal foreshore) is not affected by overshadowing; and
- there is visual permeability of the location.

Given the lack of submissions objecting to building heights, particularly in the context of the extensive consultation undertaken, point one above is considered to have been satisfied. Invariably, consultation results in the submission of objections to a proposal. If a proposal is considered to be generally acceptable, consulted persons will not be concerned to make a submission, inferring support (or at worse indifference to a matter). This is considered to apply in the subject case.

The remaining criteria are also considered to have been addressed. As part of the Marina Village, the land in question will be subject to the same objectives and design principles/considerations applicable to the balance of the precinct (which is tourist/activity node in nature).

With respect to overshadowing, the City required the submission of an Overshadowing Plan. The plan reveals a relatively benign situation in terms of this potential impact. On 21 June at 12 noon, the greatest overshadowing impact is across parking areas on the southern side of the peninsula.

#### Impact of the Proposed Changes on Views and Property Values

Whilst the concerns regarding views are acknowledged, there are typically no rights protecting such and the issue is not a valid planning consideration. With respect to the change in building heights between the Building Height Guide Plan in the current Local Structure Plan and that (Building Height Plan) now proposed, those concerned with views also need to be mindful of the eight (8) storey building height afforded by Provision 21 of DA 21 across the Marina Village.

Planning decisions are also made independent of property value considerations or speculation regarding such.



### Traffic and Parking Concerns (J Radaich)

An update of the Port Coogee Transport Report (July 2009) prepared by Sinclair Knight Merz was presented following a peer review of their previous report dated December 2008. The July 2009 report addressed the issues and uncertainties raised through the independent technical review process undertaken by Uloth and Associates in April 2009.

The City is satisfied that the report has provided sufficient justification for the parking and traffic generation calculations and believe the conclusions are logical. The following points are made to support the recommendation:

1. The peak parking demand (residential plus non-residential) occurs on a weekend. Design standards and a comparative survey of the Mandurah Ocean Marina where used to assist in the review. Parking provisions required are as follows :

Marina Village Residential including their visitors	2431 bays
Non-residential	655 bays
Non-residential general beach visitors	50 bays
TOTAL	3136 bays

The Marina Village residential car parking provision of 2431 bays is conservative, with a figure of 1740 bays plus visitors' bays shown to be sufficient. It is also unlikely that the peaks for each non-residential use will occur at the same time, thus additional capacity will be achieved (when applying the methodology across the combined uses). The non-residential uses include: retail, commercial, food and beverage, community uses and boat pens.

Consequently, the following minimum parking demand provision proposed by Sinclair Knight Merz is acceptable.

Marina Village residential permanent on-site	2188 bays
Marina Village residential visitor on-site	121 bays
Marina Village residential visitor on-street	122 bays
Non residential public parking	705 bays
TOTAL	3136 bays

The 100 room hotel will also require 100 parking bays on-site; however, this would form part of the separate hotel development conditions.

2. The preparation of an effective Parking Management and Strategy Plan will be necessary to detail how the on-street and off-street



non-residential public parking facilities will be shared between short term and long term commercial and recreational uses.

3. Strategically located taxi ranks and pickup/set down areas was not addressed in the report and these will need to be identified or allowed for in the development. A convenient pickup and set down location will also need to be provided to support the marina users.
4. The provision of parking at the end of the residential groyne and residential island is a concern as they may affect the living amenity of residents. How this parking is to be managed so as to not cause problems for residents will need to be demonstrated.
5. The peak traffic demand on the external road system is projected to be 11,948 weekend trips/day and 12,535 weekday trips/day (satisfactory). The impact of the Port Coogee development on Spearwood Avenue was estimated to increase demand by 2890 weekday trips/day (2006). This has now been refined to 1880 weekday trips/day in the 2009 report.
6. There will ultimately be a requirement for traffic signals at the Pantheon Avenue and Orsino Boulevard intersections with Cockburn Road. The provision of these signals should be the responsibility of the developer.
7. The report has identified the requirement for traffic signals at the Pantheon Avenue/Orsino Boulevard intersection. The provision of these signals should be the responsibility of the developer.
8. Although the traffic signals on Cockburn Road will operate satisfactorily, the analysis of the Pantheon Avenue intersection indicates that traffic queuing in Pantheon Avenue could be past the second intersection for 5 percent of the time in the morning peak period. This will need to be further addressed due to the possible impact on the local residents fronting Pantheon Avenue.
9. There was an indication that some minor access streets should have a reduced carriageway width of 5.5 metres. However, to facilitate traffic movement and turning and service vehicles, the minimum width should be 6.0 metres.
10. The pedestrian, cycling and public transport provisions and amenities have been adequately address and catered for.

#### Relocation of the Neighbourhood Centre into the Marina Village

The relocation of the neighbourhood centre into the Marina Village is proposed for the following reasons (as provided by the applicant).



- *Successful places usually emanate from a single point; the Marina Village will establish a core precinct and focus for the community.*
- *The concentration of uses will provide greater activity, vitality and activation of the public realm within the Marina Village.*
- *The provision of a separate Neighbourhood centre will detract focus from the Marina Village.*
- *The consolidation of uses will improve economic viability and accordingly the success of the centre as a vibrant place.*

*An expert retail analysis by PRACSYS raised concerns about the distributed nature of the retail and commercial uses within the previous LSP and recommended the consolidation of these activities to give the centre the best chance of success for the benefit of business owners and the immediate and wider community.*

*PRACSYS identified that a high concentration of uses is likely to be more economically successful than lower concentrations i.e. commercial uses focussed on particular areas of the Marina Village will be more economically viable than commercial uses spread through the Centre ... . PRACSYS states that ‘the logic is that by focusing car parking and foot traffic around a few contained nodes, all businesses will have a greater chance of surviving seasonal trading fluctuations and therefore will provide a higher standard of amenity for residents and visitors all year round. This is particularly true for seasonal water front locations such as the Marina Village, where foot traffic tends to dissipate very quickly as it moves further from activity nodes.*

For the above reasons, the subject change to the Structure Plan is accepted. It is important to note; however, that not all non-residential activity is being transferred into the Village. Despite initial concerns about a *Possible Local Centre* on the Neighbourhood Centre land, an agreed position in this regard has been reached.

It is believed the development of part of this southern site for the purposes of a shop, café or convenience store should be mandatory. These types of uses will serve the local community as well as visitors to this part of the project given the adjacent foreshore reserve and beach for recreation. It is also believed the required floor area should be a minimum of 200 m<sup>2</sup>. This is sufficient in size for achieving a meaningful presence without eroding the reasons for shifting the neighbourhood centre into the Marina Village.

To effect the above, changes have been made to the latest version of the Revised Local Structure Plan. The southern part of the land in question is noted as an Additional Use Site, whilst the Structure Plan



text refers to the following preferred uses: shop; restaurant, exhibition centre and convenience store. Both the plan and text also refer to the requirement for the site to contain a minimum gross lettable area of 200 m<sup>2</sup>.

#### Claims of misrepresentation at the time of property purchase

A number of submissions and/or enquiries received by the City made claims information provided at the time of purchasing land within Port Coogee is no longer relevant based on what is now proposed by the developer. Similar to the issues of views and property values, this issue is not a planning consideration. When claims along these lines were made, the City's officers recommended the matter be taken up with Australand.

#### Impact of Wind/Planning for Wind

In addition to providing for the development of additional dwellings within the Marina Village, the increased building height shown on the Building Height Plan is equally relevant to addressing the major impact of wind in this coastal location. The introduction of Waterfront Park as one of the major changes in the Revised Local Structure Plan further highlights the need for appropriate wind management.

*As stated by the applicant ... a relatively well protected open space can be achieved by providing building height. As previously discussed with Council, wind amelioration is provided for a horizontal distance by a factor of 5x the height of the building. This will be of particular value to Waterfront Park and the mixed use land uses around the waterfront, where it will be important to create a comfortable environment in the public realm. Creating sheltered public spaces will also contribute to the provision of optimum opportunities for a sustainable food and beverage precinct.*

#### The Changes will Result in an Increase in Crime and Anti-Social Behaviour

The concerns regarding an increase in crime and anti-social behaviour as a result of the proposed changes are not shared by the City. One of the primary objectives of the Revised Local Structure Plan is the establishment of a Marina Village that is highly successful in respect of street and public activity levels across the day and during the evening. If delivered as expected, crime and anti-social behaviour should be minimal in the face of a vibrant, active village.

Additional to the above and fundamental to well developed 'urban' locations, a high degree of emphasis is to be placed on ensuring new development is responsive to the public environment. There is great potential via this approach to prevent inappropriate behaviour and



criminal activity from occurring. This is in addition to the requirement for all development to engage across the private/public realm through simple opportunities such as natural surveillance.

#### Other Matters for Consideration

In addition to the matters arising out of the consultation undertaken, the City's Planning Directorate has been in separate discussion with Australand and its consultants regarding the following matters.

#### Dual Use Paths (DUP's)

The extent of DUP access through the project area has been raised as a concern. In particular, concern based on the extent of information depicted on the Structure Plan itself has been raised in relation to public access (pedestrian and bike movement) around the 'Icon' building to be developed at the western end of the southern peninsula.

Provision 6 in DA22 refers to a *continuous dual use path along the foreshore connecting into the existing pathway system*. Whilst both the current and Revised Local Structure Plan show essentially the same in terms of DUP's, the DUP extending towards the northern tip of the southern peninsula is not shown to extend in its entirety around the 'Icon' site marking the end of the peninsula. For the purpose of continuous access, this is considered important.

In response to the City's concerns, Australand and its consultant have advised permanent public access (pedestrian and bicycle) is to be made available around the 'Icon' site and this part of the peninsula, albeit at a lesser dimension/standard to the DUP extending to this point. In this knowledge, the extent of DUP shown on the Revised Local Structure Plan is supported subject to a condition requiring the access to be permanent.

#### Language use throughout both documents

The language throughout both documents (the revised Local Structure Plan and Marina Village Master Plan) reads non-committal (*potential, possible*) when compared with the requirements of Provision 20 in DA 22 which requires *a site of not less than 3500 m<sup>2</sup> for the development of a hotel, located and designed to the satisfaction of the Council*.

Consequently, advice confirming the development of a hotel within the Marina Village has been sought, particularly given the progression towards greater clarity generally in the planning of the Village. In response, the language in the documents has been changed to refer to *Potential Site for Required Hotel*. Currently, the word "Required" is not included.



With respect to the location of the future hotel, a condition is recommended requiring this to be adjacent to the marina itself. This is consistent with the objective of activating the waterfront, preventing the establishment of this required use elsewhere within the marina village.

In addition to the language used in respect of a hotel, the Revised Local Structure Plan initially referred to a *Potential Site for Community Purpose*. Similarly, this aspect of the Plan and documents has been amended to refer to the *Potential Site for Required Community Purpose Space*, the operative word being "Required".

#### Marina services building

Currently identified to be two (2) storeys in height, the Marina Services Building is now identified for a building height of up to three (3) storeys. This minor increase is commensurate with the *Icon Building* status applicable to the site.

Not less than 300 m<sup>2</sup> of floor space within this building is to be transferred to the City free of cost, for use in association with the management of the Marina. The Revised Local Structure Plan also refers to *additional facilities for refuelling and sullage disposal ... if there are any such facilities at the time of transfer*.

#### Active use of the Peninsula at the ground floor level

Provision 17 of DA22 refers to the non-residential use of ground floor space across the extent of the Marina Village. In this regard, the expectation has always been that the ground level of peninsula development where it abuts the southern part of the marina will be activated with lifestyle type activities including food and beverage establishments (cafes and restaurants), specialty retail and appropriate commercial use.

Reinforcing the above expectation, the 'Land Use Precincts' plan in the current Structure Plan depicts in a diagrammatic form non-residential development for the extent of the southern peninsula. The extent of this, however, has been reduced to approximately half the width of the southern peninsula in the Revised Local Structure Plan. In this regard, the applicant states the following.

*The proposed Land Use Precincts plan (Figure No.10) in the revised LSP shows a total of 893.4 linear metres of non-residential frontage (747.2 m excluding the peninsula). Excluding the peninsula, the plans are roughly comparable with only 50.5 m (or approximately 6%) less frontage in the proposed LSP. The difference is generally attributable to the change in road layout and the focus of the Revised LSP to concentrate the non-*



*residential uses within the central precinct of the Marina Village and fronting Waterfront Park.*

*On the peninsula, it is no longer intended to require non-residential use at ground floor for buildings westward of Waterfront Park. It is still intended that this area will be available for mixed use development and may attract some non residential use at ground floor to take advantage of the northern aspect, views over the marina and protection from the prevailing breezes. To ensure this opportunity is allowed for, it will be required that ground floors be designed robustly to accommodate land use change to commercial over time where viable.*

*The PRACSYS report indicates that just over 9,000 m<sup>2</sup> of retail floor space would be viable and would support a number of business types including a full line supermarket, fruit and veg, bakery, tavern/bar, delicatessen, café's, restaurants and specialty retail. Given the development of the Trade Coast zone (the Trade Coast includes the Kwinana Industrial Area, the Australian Marine Complex, Latitude 32, East Rockingham Industrial Area and the proposed Fremantle Outer Harbour Development) and the increasing support of commercial activity in the area, PRACSYS suggests that 1,500 to 2,000 square metres of office space is likely to be viable. The linear frontage requirements to accommodate this floor space are reflected on the proposed Land Use Precinct Plan.*

*Simply requiring a non-residential use at ground floor will not necessarily mean that space becomes occupied. If there is simply too much space to support, then it will remain vacant. This is not a desirable outcome for any centre. Empty shops convey an 'unfinished' atmosphere, or worse, one of failure. Empty shopfronts contribute nothing to the public realm, the vibrancy or the sense of safety of a place. And this can become a self fulfilling situation where new shops are put off by the association with a place that is not a success. It is imperative to ensure that the provisions of the LSP do not inadvertently create such a situation.*

To summarise, the reasons for a reduction in non-residential frontage to the southern part of the marina relates to:

- The uncertain viability of requiring all of this to be developed for active purpose, both in terms of achieving previously conceived land use/urban design objectives - as well as from a commercial perspective.
- The concern to ensure the new Waterfront Park location is maximised through the development of viable active uses, and



ensuring the intensity of this Village focal point is maintained rather than eroded by the more significant requirement for the entire peninsula to be developed with non-residential use.

On the above grounds and the supporting information provided by the applicant, the reduction in the designated requirement for the entire southern peninsula to be activated at the ground floor level with intensive non-residential use is accepted. This support is qualified though, on the recognition that for the balance of peninsula not shown for active use, the builtform at the ground floor level is designed to a “robust” standard. This requirement has been built into the requirements of the Revised Local Structure Plan and Marina Village Master Plan, providing for a commercial built outcome that caters for low scale/low impact non-residential use (when viable) in the future.

#### The Corsos (links across the southern peninsula)

The City’s expectation for builtform on the southern peninsula should be for a collection of buildings, independent and separate, with clearly defined spaces in between to break the extent of building bulk and frontage. This approach will also assist with the extension of views across the peninsula. The main concern in this regard relates to a potential for a “walling” effect of development if there isn’t a number of clearly defined breaks.

Recent discussion regarding the manner in which the Corsos are developed has focussed on the need to respect the underlying functions of these links (mentioned above). It has been identified more recently, however, that the design and execution of these elements in a builtform sense is integral to wind management. To this end, the Revised Local Structure Plan states these *links may not necessarily be in a straight line between the waterfronts, but may be kinked or aligned so as to manage or soften wind effects.*

Whilst the need to consider wind in the design and development of these spaces is appreciated, their importance as physical/visual links across the peninsula and for breaking the extent of builtform is equally fundamental. Accordingly, a condition reiterating the underlying objectives for these elements is recommended, elaborated to explain the City’s expectations in this regard.

It is noted the City will have no role in the ownership of these links. Rather, they will be in private ownership, across which the City will be party to an ‘Easement in Gross’ protecting public access in perpetuity.

#### Landmark site (western end southern peninsula)

Similar to the situation regarding the language used to describe the Hotel and City’s Community Space, the Revised Local Structure Plan initially referred to the *expected* development of the western most point



of the southern peninsula with an 8 storey building. This has subsequently been amended to ensure a landmark building is developed on the site, to be set apart from adjoining builtform through iconic architecture and a *minimum height of 30 m*.

#### Indigenous heritage and public art

The Marina Village Master Plan states that *the opportunity exists to engage with the local indigenous heritage associated with Cockburn Sound*. It also refers to the opportunity to *interpret and engage with indigenous, maritime, agricultural and industrial history of the site*. With respect to public art, the document refers to the *Incorporation of public art to interest and engage the community and add visual appeal to the area*. A strategy referring to *Significant and high quality public art* is also mentioned.

To better understand what is intended in respect of these matters, the City has been advised the following:

We understand Australand, together with its consultant Landscape Architect, Hassell Pty Ltd and community development consultant Creating Communities, is working closely with the Port Coogee People, Places, Working Group (which includes community representatives) to develop an Interpretation Strategy for Port Coogee. We understand the Strategy will be forwarded to the City Of Cockburn in draft form in late August 2009, and will incorporate public realm (park names); public art and landscaping design planned for the site.

#### Builtform Guidelines and DAP's

To better guide development within the Marina Village for the purpose of achieving high quality urban outcomes that take into account local environmental considerations, a set of Builtform Guidelines are to be prepared. These guidelines for the most part will describe and detail uniform requirements for the purpose of achieving development that is suitably active and engaging at the street level, and visually interesting and sufficiently animated (with balconies and the like) above street level. The Guidelines will also provide direction on design, development and the environment.

As listed in the Revised Local Structure Plan, the Builtform Guidelines will deal with the following amongst matters: building form and typology, setbacks, street address and activation, the development of landmark and gateway buildings, and wind amelioration. In addition to these elements and having regard for the concerns raised regarding crime and anti-social behaviour, it is recommended Crime Prevention through Environmental Design (CPTED) also form part of the Guidelines. Attention to detail with respect to servicing and waste management as important aspects of future development is also recommended for inclusion in the Guidelines.



In addition to the Design Guidelines and has been the case across Port Coogee, Detailed Area Plans (DAP's) will also be prepared. This layer of control will sit subordinate to the Revised Local Structure Plan and Design Guidelines and will focus on site specific planning considerations. Where a DAP does not refer to an alternate standard, the applicable standard/s are those prescribed in the Residential Design Codes (R-Codes) and Town Planning Scheme No. 3 where the R-Codes do not apply.

To date, Council resolution (March 2004) has required the presentation of all Detailed Area Plans to Council for consideration and approval. Over 15 Port Coogee DAP's have been referred to Council. With the exception of a number of minor changes to a small number of these DAP's, all have been approved by Council without change. The need to continue the current practice, therefore, is no longer considered necessary, particularly given the supporting role of the Marina Village Master Plan and the preparation of the Builtform Guidelines (to be presented to Council for approval prior to implementation given their role in informing new development). Instead, it is recommended Council resolve to delegate authority to the Manager of Statutory Planning/Coordinator Statutory Planning to approve DAP's in the future.

#### Scheme Amendment

One change in particular to the Revised Local Structure Plan requires the amendment of the City's Town Planning Scheme No. 3 DA22 provisions. By virtue of the relocation of the Neighbourhood Centre into the Marina Village, Provision 10 is now superfluous. Accordingly, the Scheme needs to be amended and this provision removed. A condition requiring this is recommended.

#### Conclusion

Having regard for the content of the above report, the consultation that has occurred, and the considerable on-going negotiation and refinement that has taken place in respect of the Revised Local Structure Plan, Marina Village Master Plan and Transport Report, it is recommended these documents and their respective contents be adopted as the basis for guiding and controlling the on-going development of the Port Coogee project.

The approval of the Port Coogee Revised Local Structure Plan is in accordance with the provisions of 6.2.14.1(b) and 6.2.14.3 of Town Planning Scheme No. 3. In accordance with the requirements of 6.2.14.3, the Port Coogee Revised Local Structure Plan is to be referred to the Western Australian Planning Commission if approved by Council



## **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.

### **Lifestyle and Aspiration Achievement**

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

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To develop and maintain a financially sustainable City.

### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.
- To pursue high value employment opportunities for our residents.

### **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.

### **Transport Optimisation**

- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act



### Community Consultation

A community consultation undertaken is detailed in the above report; a summary of all submissions can be viewed in the attached 'Schedule of Submissions'.

### Attachment(s)

1. Current Structure Plan
2. Amended Structure Plan
3. Schedule of Submissions

**Note:** Copies of the Port Coogee Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report have been provided to each Councillor.

### Advice to Proponent(s)/Submissioners

The proponent and submissioners have been advised this matter is to be considered at the 17 September 2009 Special Council Meeting.

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

Nil.

## 10. **(MINUTE NO 4056) (SCM 17/09/2009) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

### RECOMMENDATION

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

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



**COUNCIL DECISION**

MOVED Cllr H Attrill SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 7/0**

**11 (SCM 17/09/2009) - CLOSURE OF MEETING**

8:45 pm.

**CONFIRMATION OF MINUTES**

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

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

