

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 FEBRUARY 2008 AT 7:00 PM

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 FEBRUARY 2008 AT 7:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Councillor
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mrs J Baker	-	Councillor
Mrs S Limbert	-	Councillor
Mrs V Oliver	-	Councillor

##### IN ATTENDANCE

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

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00 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 (OCM 14/2/2008) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)**

The Chief Executive Officer advised the meeting that he had received declarations of interest from Mayor Lee, Cllrs Oliver, Graham and Romano, which would be read at the appropriate time.

**5 (OCM 14/2/2008) - APOLOGIES AND LEAVE OF ABSENCE**

Deputy Mayor Allen - Apology

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

Nil

**7 (OCM 14/2/2008) - PUBLIC QUESTION TIME**

**Libby Hocking, Coogee - Agenda Item 14.19 - Tobacco Action Plan and Physical Activity Program**

Q1 In order to support this worthwhile initiative- will council consider banning smoking in the entry precincts of shopping centres in the City of Cockburn? As a shopper I find going into local shopping centres such as the Phoenix Shopping Centre quite unpleasant, because of the haze of cigarette smoke surrounding the entrance to the centre.

A1 The City is not considering any additional Local Laws or bans relating to smoking in shopping centres as it already enforces the Tobacco Products Control Regulations 2006 which ban smoking in enclosed public places (such as shopping centres), and requires adequate ventilation or setbacks be maintained from smoking areas to all entrances to the shops. The City's Environmental Health Officers have recently responded to a similar complaint and have worked closely with the Phoenix Centre Management to encourage patrons to comply with the Regulations in several ways including, new no smoking signs, requiring a 5 metre setback between entrances and where people can smoke, relocation of Butt Bins, advice to tenants and instructing the Centre's security staff to police the regulations.

Q2 Will council allocate some of these new funds to encourage people in Cockburn to become active to increase the walkability and connectedness of the city? For example to join up the DUP on the eastern side of Cockburn Rd (which currently has some breaks) so it





extends from Beach Rd south to the Woodman Lighthouse.

- A2 The City will carry out the works identified in the successful grant funding application of \$30,000 from the Premiers Physical Activity Taskforce. Walking and walkability within the City will form key parts of the overall Physical Activity Action Plan. Recommendations arising from the Physical Activity Plan and its associated Steering Group will then be used in the preparation/review of Council's Forward Works Plan and the development of Council's Infrastructure budget.
- Q3 Will council ensure that the bulk of this new funding will be used to provide better facilities for people to use- rather than for marketing and information campaigns. This could be achieved by promoting both the anti- smoking and healthy exercise strategies, through existing publications, the council website, local libraries and community centres.
- A3 The new funding is required to be spent to carry out the works identified in the grant application from the Premier's Physical Activity Taskforce. Given that the grant funding is only \$30,000 over one year, there may be some limited opportunity for minor capital expenditure. However the majority of the funds will be spent on health promotion activities, typically involve information and awareness raising campaigns and the City will be using Council's Web site, existing publications, local libraries, community centres, shopping centres and local newspaper media to achieve this.

### **Glen Diggins, Coogee - Agenda Item 14.19 - Tobacco Action Plan and Physical Activity Program**

As Mr Diggins was not present at the meeting, Mayor Lee requested the Chief Executive Officer to forward the responses to Mr Diggins' questions in writing.

### **Mrs P Brown, Munster - Agenda Item 14.16 - Change of Use to General Industry (Licensed) - 27 Barberry Way, Bibra Lake**

- Q1 If Council approves a change of use to General Industry to accommodate a huge waste and recycling facility in Barberry Way, Bibra Lake, won't all the machinery used for many hours every day to crumb rubber tyres and plastics, cause noise problems for residents living in homes 240 metres away?
- A1 At this stage the applicant has not determined whether the operation will be a 24 hour/day operation. In any case the operation would be required to comply with the *Environmental Protection Authority Act, 1986* and the *Environmental Protection (Noise) Regulations, 1997* which prescribe the maximum sound levels permitted.



The Department Environment & Conservation are also likely to prescribe conditions in relation to noise emissions in order to ensure that the noise impact of the proposal on surrounding residential areas is minimized and accords with the statutory regulations.

**Mrs J Hill, Munster - Agenda Item 14.16 - Change of Use to General Industry (Licensed) - 27 Barberry Way, Bibra Lake**

Q1 Can Council give a guarantee, that if they approve this new facility to crumb hundreds of tons of truck and car tyres per week, that this rubber won't end up being burnt in the Cockburn Cement Kilns as an alternative fuel?

A1 The City is not in a position, as part of its determination of the application, to define where the materials once treated by the proposed facility will be used. It should be noted that Cockburn Cement has publicly stated that they have no plans to burn recycled tyres at their plant, at least for the duration of the EIP period. The current period runs through until 2009. The applicant has indicated that they currently have plants that will be taking this rubber material to be utilized or upgraded to other products within the corporate organization.

**Mrs S Cooling, Munster - Agenda Item 14.16 - Change of Use to General Industry (Licensed) - 27 Barberry Way, Bibra Lake**

Q1 Is Council aware that Cockburn Cement has informed Community Group- members that they wish to burn crumbed rubber tyres and plastics in their kilns because they will save on fuel costs and it will make them more competitive in the market place?

A1 Cockburn Cement has publicly informed the Community Reference Group that they will be trialing the use of fly ash as an alternative fuel but have reiterated that they do not intend to use recycled tyres as a potential alternative fuel source. Any use of alternative fuels by Cockburn Cement is subject to a separate approval from the Department Environment and Conservation.

**Geoffrey Harcourt Sach - Agenda Item 15.3 - Business Plan 2007/08 and Budget Review Period Ending 31 December 2007**

Q1 Can the Mayor advise what action the City intends to take to recognise and congratulate the Councillors and Staff of the City of Cockburn on the expert management and development of the following: \* Completion of the Bus interchange at Cockburn Central. \* Completion of the Port Coogee Marina Sea walls and land based



infrastructure. \* Refurbishment of the Memorial Hall. \* Construction of the Cockburn, Yangebup and Jandakot business parks. \* Renovation and refurbishment of the City Administration Buildings. \* Completion of the South Beach Land Development. \* Expansion of Phoenix and Gateways Shopping Complexes. \* Improvements to the Henderson Waste Water Recovery Centre.

A1 The City is proud of its achievements in the development of infrastructure for the community. The projects you have listed are consistent with the City's Strategic Planning vision to:

- Achieve a strong sense of place and belonging;
- Ensure infrastructure meets Community and Industry needs;
- Improve the health, safety and security of the community;
- Attract a diverse range of residential and employment providers

The City has made a direct financial contribution of \$16M on the community infrastructure you have mentioned. There has also been countless hours of staff effort invested in the planning of the major residential and commercial developments. All of these are practical examples of this Council's commitment to its mission of making "the City of Cockburn the most attractive place to live, work and visit in the metropolitan area."

While Councillors and staff do not look for individual credit for these achievements, as Mayor of the City, he felt that it was only for him to acknowledge the tremendous efforts of the Councillors and Staff in achieving these goals.

### **Michelle D'Emden, Yangebup**

As Ms D'Emden was not present at the meeting, Mayor Lee requested the Chief Executive Officer to forward the responses to Ms D'Emden's questions in writing.

## **8. CONFIRMATION OF MINUTES**

### **8.1 (MINUTE NO 3649) (OCM 14/2/2008) - ORDINARY COUNCIL MEETING - 13/12/2007**

#### **RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Thursday, 13 December 2007, be adopted as a true and accurate record.



**COUNCIL DECISION**

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

**CARRIED 9/0**

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

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

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

Nil

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

Nil

**13. COUNCIL MATTERS**

**13.1 (MINUTE NO 3650) (OCM 14/2/2008) - SISTER CITY DELEGATION (1021) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approves of a delegation representing the City of Cockburn to its Sister City of Split, Croatia, in May 2008;
- (2) the delegation comprise of the following personnel:
  1. Mayor, or Deputy Mayor if the Mayor is unavailable, (Ceremonial and Protocol functions).
  2. Elected Member \_\_\_\_\_ (Economic Development function).
  3. Director, Administration and Community Services (Programme Organiser, Executive Tour Support).
  4. Youth Advisory Council nominee (Youth and Education functions).
  5. Community Member (Advisory/Interpreter Support), subject to contribution towards associated costs; and



- (3) invites the Minister for Local Government, Hon. Ljiljana Ravlich to accompany the delegation as a representative of the State Government.

### **COUNCIL DECISION**

MOVED Cllr R Graham SECONDED Cllr I Whitfield that Council:

- (1) approves of a delegation representing the City of Cockburn to its Sister City of Split, Croatia, in May 2008;
- (2) the delegation comprise of the following personnel:
1. Deputy Mayor Kevin Allen (ceremonial and protocol function);
  2. Cllr Tony Romano (Economic Development function).
  3. Director, Administration and Community Services (Programme Organiser, Executive Tour Support).
  4. a nominee of the Youth Advisory Council, aged 18 years or older, approved by the Chief Executive Officer in liaison with the Mayor.
  5. A Community Member approved by the Chief Executive Officer in liaison with the Mayor, based on the criteria referred to in the report.
- (3) invites the Minister for Local Government, Hon. Ljiljana Ravlich to accompany the delegation as a representative of the State Government.

**CARRIED 5/4**

### **Reason for Decision**

The Mayor has stated that he will not be available to participate in the delegation.

Cllr Romano has stated that he is available and willing to participate in the delegation. Cllr Romano has over 20 years experience in managerial positions in the financial services sector. He has demonstrated a capacity to present the City of Cockburn in a positive and professional manner, is committed to furthering the objectives of Council's Sister City agreements and participated in previous Sister City functions on behalf of the City. He is therefore a good choice to fulfil the economic development function of the delegation.

The Youth Advisory Council nominee should be an adult, rather than a minor, because an adult will be more able to make decisions about



their own affairs and require less supervision from the other delegation members during the conduct of the delegation.

Though the Council has confidence that the Youth Advisory Council will make a good choice about who should be their appropriate delegate, Council would like its Chief Executive Officer to have an oversight function to confirm that the right choice has been made.

A decision-maker needs to be appointed in relation to the choice of the community member delegate so that there is clarity about how the person will be appointed. It is not necessary for the Council to make this decision and for that reason the Council delegates this decision to its Chief Executive Officer.

Sister City arrangements are largely ceremonial in nature. The Mayor's role includes carrying out ceremonial duties on behalf of the City and liaising with the Chief Executive Officer in relation to the City's affairs and the performance of its functions. In the Council's opinion, therefore, the Chief Executive Officer should liaise with the Mayor in relation to the selection of the Youth Advisory Council delegate and Community Member delegate.

### **Background**

The Sister City Agreement between the Cities of Cockburn and Split (Croatia) has been formally in existence since 1998.

2007 has seen a number of City of Cockburn initiatives take place in an attempt to raise the profile and community interest in this arrangement.

Projects such as the "Friendship Way" (Stage 1), featuring Croatian themed landscaping and memorial on Spearwood Avenue and the 2007 Spring Fair, which presented a variety of typical Croatian cultural performances and displays, are testament to this effort.

The City of Cockburn extended an invitation to the Mayor of Split, Ivan Kuret, to visit Cockburn and experience first hand the historical and cultural influence of Croatia that has emerged in the development of Cockburn. Unfortunately, Mayor Kuret was unable to attend because of competing obligations, however, he sent a reciprocal invitation to the Mayor of Cockburn to visit Split in early May 2008, in order to participate in the Feast of St. Dominus, patron Saint of Split, as per the attachment.

### **Submission**

N/A



## Report

As it has been nearly 10 years since the Sister city Agreement was forged with Split, it is considered an appropriate time for the milestone to be marked with a delegation representing the City of Cockburn to visit Split and promote the ideals of the Agreement, which focus on 'cultural, economic and educational interchange.... primarily based on people to people contact'.

The recent initiatives undertaken by the City to recognise the Croatian contribution to the development of Cockburn has been captured on visual record and presents an ideal basis for a programme of events to be organised with the City of Split, to coincide with its own period of festivities.

It is proposed that the delegation would be a 'working party', comprised of personnel capable of delivering tangible information to identified, relevant interest groups in Split.

This would include presentations to civic, commerce, educational and cultural organisations with which there could become an ongoing interchange of information, ideas and exchanges between the two Cities. With this in mind, it is considered important that planning of the programme begin as early as possible to secure access to primary target groups in Split (eg. educational, cultural, government and commercial institutions).

Already, the Croatian Consul in Perth has offered to assist the City in making the necessary connections in Split, which will enable information to be compiled and adequate presentations prepared to ensure the credibility of the visit is not compromised.

For this purpose it is essential that each of the delegates is well versed and competent in a field of expertise which adds value to the visit and can clearly demonstrate that the purpose of this itinerary has been achieved.

While it is expected that the majority of the delegation will consist of representatives of the City of Cockburn, there is also an opportunity to draw on affiliations within the community to complement the programme.

On this basis, it is suggested that a nominee of the Youth Advisory Council accompany the delegation. This person would be responsible for delivering information to youth orientated organisations and educational institutions, as well as collecting information on similar organisations and systems which exist in Split. Upon the return of the delegation, this information could be presented at appropriate forums in Cockburn and surrounding areas. This would represent a tangible outcome in the promotion of the Sister City objectives.



Similarly, the economic development interests of both Cities could be more meaningfully explored with the Council delegate making presentations on the business and commercial opportunities which exist at the local and statewide levels to representative organisations in Split. Again, reciprocal information could be gained from hosting organisations in Split and presented to local interest groups upon return as a further demonstration of achieving an outcome relevant to the aims of the Sister City Agreement.

It is also suggested that it would be a suitable gesture to invite a community member to accompany the delegation, on a partially subsidised basis, as a means of verifying the integrity of the visit, in addition to being able to assist the delegation in an advisory and interpretive capacity. This would require the person to be able to converse in and comprehend the Croatian language and ideally have some knowledge of Split, as well as a strong association with the Cockburn district.

Such a person is likely to be a representative of the local Croatian community and could be selected by way of an approach to Croatian based organisations. While it is expected that the person would be responsible to self-fund their travel expenses, it would be appropriate for other out of pocket expenses to be borne by Council, in return for services provided.

In addition, there is an opportunity to explore whether the State Government may wish to be represented on the delegation. In this regard, the current Minister for Local Government, Hon. Ljiljana Ravlich, would be an ideal choice, given both her portfolio responsibilities within Government, and also her personal connections with the City of Split.

Overall, this proposal represents an opportunity for the City of Cockburn to demonstrate that the ideals of the Sister City concept are worth pursuing. To achieve this, it will be essential to prepare a comprehensive itinerary and include a programme of events and presentations which can be promoted, in advance, to the Cockburn community and in the media. It will also be necessary for the programme to be delivered in a manner which ensures positive outcomes for the communities of both Cities and encourages increased interaction between both communities.

Provided these benefits can be fulfilled and an optimistic environment established for future activity and community involvement, it is submitted that the concept as outlined in the attached document should be embraced by Council and the delegation supported.





## **Strategic Plan/Policy Implications**

### **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.

### **Budget/Financial Implications**

Indicative costs associated with the delegation are as follows:

1. Airfares (for 4 delegates) A\$26,000 - A\$42,000, based on advice from service provider on fares available as at 23 January 2008, from a choice of reputable airlines and in accordance with Council Policy on conference travel. This figure may vary (up to 15%) dependent on the date of reservation and availability of preferred routes.
2. Accommodation (for 5 delegates) A\$4,000, based on 50% of 7 nights accommodation in a typical 4 star premises. Although not yet confirmed, it is likely that the City of Split will subsidise this, possibly by 100%.
3. Expenses (for 5 delegates) A\$3,000 for meals and refreshments, although it is expected that the City of Split will provide hospitality to an extent that this amount will be reduced.
4. Gifts (for City of Split) A\$1,000 to provide the City of Split with an appropriate memento of Australia.

### **Legal Implications**

N/A

### **Community Consultation**

Youth Advisory Council and Croatian based community groups to be contacted regarding potential involvement in the programme and delegation.

### **Attachment(s)**

1. Letter of Invitation - Mayor of City of Split, Croatia.
2. Concept Paper - Sister City Delegation.

### **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 (MINUTE NO 3651) (OCM 14/2/2008) - RETAINING WALLS - 401 ROCKINGHAM ROAD SPEARWOOD - OWNER: JOTON DEVELOPMENTS PTY LTD - APPLICANT: SHELFORD CONSTRUCTION PTY LTD (3314484) (E SMITH) (ATTACH)**

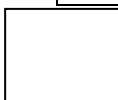
**RECOMMENDATION**

That Council:-

- (1) grant its approval to the revised application for proposed retaining walls in accordance with the approved plan subject to the following conditions:-
  1. Development can only be undertaken in accordance with the terms of the application as approved herein and any approved plans
  2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
  3. No wall, fence or landscaping greater than 0.75 metres in height measured from natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a 2.1 metre truncation.
  4. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
  5. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays
  6. Retaining wall(s) being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.

**SPECIAL CONDITIONS**

7. The surface finish of the boundary wall(s) abutting the adjoining lot(s) is to be either face brick or rendered to



match the external walls of the dwelling being constructed unless otherwise agreed with the adjoining property owner(s). In all instances, the work is to be of a high standard.

#### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
  2. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, Council's Planning Services should be consulted.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval (inclusive of MRS Form 2 Notice of Approval); and
- (3) advise the applicant and submissioner of City's decision accordingly.

#### **COUNCIL DECISION**

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

**CARRIED 9/0**

#### **Background**

Zoning:	MRS:	Urban
	TPS3	Residential R-30
Land Use:	Residential	
Lot Size:	889m <sup>2</sup>	
Use Class:	Single (R-Codes) House	

At the December 2007 meeting of council, it was resolved to defer consideration of this matter until the February meeting to allow consideration of additional comments from the applicant.

The subject land is situated on the western side of Rockingham Road between Newton and Barrett Street and is currently vacant. The site is flanked to the north and south by single dwellings. Single dwellings are also present opposite the site.

The site has survey strata subdivision approval for both 2 and 3 lots which was issued in August 2006 and December 2006 respectively.



The adjoining property to the north of the subject site has a finished level similar to what the northern portion of this application is proposing. While the adjoining property to the south is at natural ground level, slightly lower than the existing subject site.

### **Submission**

The applicant proposes retaining walls along the southern and western boundaries of the subject site. The maximum height of the wall along the southern boundary is 1500mm and the maximum height of the wall along the western boundary is 2660mm. A third retaining wall with a maximum height of 2660mm is proposed as part of this application. As the site is proposed to be developed as a 3 unit strata development in the future this wall will form a side boundary for the future survey strata lots (see attached site plan). The northern two of the future survey strata lots will have a natural ground level higher than the future southern lot. The applicant seeks a variation to the Residential Design Codes for the over height retaining walls.

### **Report**

The applicant was initially proposing retaining walls with a maximum height of 2660mm along both the western and southern boundaries. This proposal was referred to neighbouring properties on the northern (No. 397 Rockingham Road), southern (No. 403 Rockingham Road) and western (No. 11A, 13 & 15 Orsulich Loop) boundaries of the subject site for comments. Two submissions were received objecting to the proposal. The submission from the southern adjoining neighbour strongly suggested that “the height of the retaining wall should be reduced to at least 1.5m”. The following valid reasons for objection were raised:

- Height, scale;
- Access to direct sunlight

Further negotiations with the applicant have resulted in the applicant agreeing to reduce the height of the southern boundary retaining wall to a maximum of 1500mm. To achieve this a third retaining wall was added to the proposal which will act as a boundary for the future survey strata development on the site as mentioned previously.

This compromise has minimised the height and scale of the proposed southern boundary retaining wall significantly, consequently the adjoining site will retain access to direct sunlight into the rear yard. In discussions with the adjoining neighbour regarding the amended plan they have indicated that they have no objection to the amended height of the retaining wall.



## **Recommendation**

That Council conditionally approve the revised application for retaining walls on Lot 15 (No. 401) Rockingham Road, Spearwood.

## **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**

The applicants may make an application for review to SAT, which will be defended by the City. Funds are available in the Council's budget for this.

### **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005

### **Community Consultation**

5 (five) surrounding owners were consulted regarding the proposal. Two (2) submissions were received objecting to the proposal and one (1) submission was received in support of the application.

### **Attachment(s)**

- (1) Location Plan
- (2) Site Plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.



**14.2 (MINUTE NO 3652) (OCM 14/2/2008) - RETROSPECTIVE APPLICATION FOR PATIO, FILL AND RETAINING WALLS (R-CODE VARIATIONS) - 16 ORLANDO AVENUE BIBRA LAKE - OWNER & APPLICANT: ARTHUR & MARIA LORETO (117986) (E SMITH) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) refuse to grant its retrospective approval to the patio, fill & retaining walls for the following reasons:-
  1. The patio fails to comply with Acceptable Development/ Performance Criteria of clause 3.8.1 – Visual Privacy of the Residential Design Codes of WA 2002.
  2. The patio fails to comply with Acceptable Development/ Performance Criteria of clause 3.6.1 - Excavation or Fill of the Residential Design Codes of WA 2002.
  3. The patio adversely affects the amenity of the surrounding properties from the height and scale of the patio and by impacting on the privacy of neighbours.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal;
- (3) require the patio, fill and retaining walls to be removed within 90 days of the date of this decision i.e. 14 May 2008; and
- (4) advise the applicant and submissioners accordingly in respect of Council's decision.

**COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Clr S Limbert that Council:

- (1) refuse to grant its retrospective approval to the patio, fill & retaining walls for the following reasons:-
  1. Criteria of clause 3.8.1 – Visual Privacy of the Residential Design Codes of WA 2002.
  2. The patio fails to comply with Acceptable Development/ Performance Criteria of Clause 3.6.1 – Excavation or Fill of the Residential Design Codes of WA 2002.
  3. The patio adversely affects the amenity of the



surrounding properties for the height and scale of the patio and by impacting on the privacy of neighbours.

- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS notice of Refusal;
- (3) advise the applicant that favourable consideration will be given to an amended application which complies with the requirements of the R-Codes, listed above, which should be submitted within 30 days of the date of this decision;
- (4) should the applicant be unable to comply with the requirements of the Codes, listed above, the patio, fill and retaining is to be removed within 90 days of the date of this decision, ie. 14 May 2008; and
- (5) advise the applicant and submissioners accordingly in respect of Council's decision.

**CARRIED 9/0**

### **Reason for Decision**

The amendments to the recommendation would allow the applicant the opportunity to modify the structures and bring the development into compliance with the statutory requirements, therefore resolving the situation. It would also ensure that should suitable modifications not be forthcoming that the applicant does remove the unauthorised structures thereby addressing the concerns of the adjoining landowner.

### **Background**

Zoning:	MRS:	Urban
	TPS3	Residential R-20
Land Use:	Residential	
Lot Size:	615m <sup>2</sup>	
Use Class:	Single (R-Codes) House 'P'	

The subject land is situated on the northern side of Orlando Avenue and has an existing double storey house which the City issued a building licence for in 2002. The site is surrounded by similar single dwellings.

The adjoining properties to the east and west of the subject site have a finished level similar to the subject site. While the adjoining properties to the north are at natural ground level, approximately 2.6m lower than the existing subject site.



## Submission

The applicant is seeking retrospective planning approval for a large patio, fill and retaining walls at the rear of the site. The patio has dimensions 8m x 5.3m and is raised approximately 1.1m above natural ground level.

The applicant seeks a variation to the Residential Design Codes privacy requirements and excavation or fill requirements as well as a minor variation to side and rear setback requirements.

## Report

The Retrospective Application was referred to neighbouring properties on the northern (No's. 11 & 13 Royale Way) and eastern (No. 14 Orlando Avenue) boundaries of the subject site for comment. Two submissions were received objecting to the application. The following valid reasons for objection were raised.

- Overlooking into habitable spaces
- Height, scale

### Overlooking

The patio does not comply with Clause 3.8.1 – Visual Privacy of the *Residential Design Codes of WA 2002* (R-Codes). This issue is the main concern from the northern adjoining landowners who have stated that “our neighbours have unrestricted views directly into our house and backyard”. A site visit undertaken in September last year confirmed this.

Under the R-Codes acceptable development criteria, an unenclosed active habitable space raised .5m above natural ground level, such as this patio, is required to be setback 7.5m from the boundary to ensure a reasonable level of visual privacy. The subject patio is setback a minimum of 1.4m from the rear boundary and is raised approximately 3.7m above natural ground level of the rear properties. This results in significant overlooking into these properties.

The performance criteria of the R-Codes Clause 3.8.1 states that development should “avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within the adjoining residential properties taking account of the provisions of effective screening”.

The applicant has stated that the patio could be appropriately screened to minimise overlooking; however, the rear property owner is not willing to agree to such a proposal as it would only exacerbate the issue of the height and scale of the patio, as discussed below, further diminishing





the amenity of the adjoining properties. Therefore the application cannot comply with the above performance criteria.

### Height/ Scale

The patio does not comply with clause 3.6.1 - Excavation or Fill of the *Residential Design Codes of WA 2002* (R-Codes). The floor level of the patio is raised 1.1m above the natural ground level of the subject site. This does not comply with the performance criteria of the R-Codes as it does not retain the natural level of the site as seen from the rear adjoining properties. The issue relates specifically to the height and scale of the patio, particularly as the subject site has a natural ground level 2.6m above that of the rear properties and does not comply with side and rear setback requirements of the R-Codes.

The adjoining properties (particularly No. 13 Royale Way) will be adversely affected by major overlooking and prevention of visual privacy and the amenity of their properties will be diminished. It is therefore considered that the concerns raised by the adjoining neighbours are valid.

### Recommendation

Given the scale of the overlooking and height of the patio, it is recommended that the application for retrospective approval for the patio, fill & retaining walls be refused and the patio be removed to natural ground level.

## **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**

The applicants may make an application for review to SAT, which will be defended by the City. Funds are available in the Council's budget for this.

### **Legal Implications**

Residential Design Codes  
Town Planning Scheme No. 3  
Planning and Development Act 2005



**Community Consultation**

3 (three) surrounding owners were consulted regarding the application. Two (2) submissions were received objecting to the application.

**Attachment(s)**

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

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.

**14.3 (MINUTE NO 3653) (OCM 14/2/2008) - VEST AS ROAD RESERVE 0.1 METRE WIDE PEDESTRIAN ACCESS WAY - LOT 5 TAPPER ROAD ATWELL (5516327) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) request that the Minister for Planning and Infrastructure vest as road reserve the 0.1 metre wide Pedestrian Access Way at Lot 5 Tapper Road Atwell, pursuant to Section 56 of the Land Administration Act 1997; and
- (2) indemnify the Minister for Planning and Infrastructure against any reasonable costs incurred in considering and granting this request and the taking of the land.

**COUNCIL DECISION**

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

**CARRIED 9/0**



**Background**

Lot 5 Tapper Road is a freehold Lot owned by the City of Cockburn. When surveyed in 1994 a strip of land 0.1 metre wide was created along the frontage to Tapper Road. The purpose of this strip of land was to deny legal access from Lot 5 to Tapper Road.

**Submission**

N/A

**Report**

Lot 5 is being developed as a 2 stage residential subdivision totalling 21 and 25 lots respectively. The second stage of the development will proceed once the land has been re-zoned. Final approval of the rezoning is expected by March 2008.

The rezoning and associated residential subdivision will result in lots fronting Tapper Road.

The 0.1 metre wide PAW will prevent legal access. Revesting the strip of land to road reserve will overcome this legal technicality.

Following Councils resolution, a written request will be forwarded to the State Land Services. State Land Services will transfer the land which only amounts to 12 square metres to road reserve. This action will precede the lodgement of the Deposited Plan containing the 26 lots the subject of the second stage of Lot 5 subdivision.

**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**

N/A

**Legal Implications**

Section 56 of the land Administration Act 1997 refers.



**Community Consultation**

N/A

**Attachment(s)**

1. Survey Plan 86547
2. Location Plan

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

N/A

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

Nil.

**14.4 (MINUTE NO 3654) (OCM 14/2/2008) - CLOSURE OF PORTION OF CRANE STREET, HENDERSON (9451005 (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) subject to the applicant agreeing in writing to meet all costs associated with the proposed closure, advertise the proposed closure of portion of Crane Street, Henderson, east of Cockburn Road pursuant to Section 58 of the Land Administration Act 1997;
- (2) at the conclusion of the statutory advertising period and subject to no objection, request that Minister for Planning and Infrastructure close portion of Crane Street, Henderson east of Cockburn Road pursuant to Section 58 of the Land Administration Act 1997; and
- (3) advise the applicant of Council's decision accordingly.

**COUNCIL DECISION**

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

**CARRIED 9/0**



## **Background**

Crane Street has been divided into two sections by the construction of Cockburn Road. While the western section provides access to lots the eastern section does not provide access to any lots.

## **Submission**

Landcorp has written to the City requesting the closure of Crane Street, Henderson.

## **Report**

Following Landcorp's request for closure, letters seeking comment were sent to the service authorities. All of the service authorities were agreeable except Water Corporation.

Initially, Water Corporation objected to the closure of Crane Street due to the presence of major infrastructure in the area. Recently Water Corporation withdrew their objection clearing way for the proposal to be advertised.

Advertising will be in the West Australian and will allow a period of 35 days for the receipt of objection to the closure.

Landcorp are proposing to incorporate the land within Stage 2 of the Marine Support Services, Henderson Industrial Area subdivision. The future of the land will be as hard stand or landscaping in future lots of the proposed subdivision. Easements will protect the Water Corporation's interests.

Landcorp has agreed to re-establish the existing cycleway running through the land within proposed subdivision roads, -

## **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.

### **Lifestyle and Aspiration Achievement**

- To facilitate and provide an optimum range of community services and events.

## **Budget/Financial Implications**

All associated costs are to be paid by the applicant.



### **Legal Implications**

Section 3.58 of the Local government Act 1995 refers.

### **Community Consultation**

The proposal will be advertised in the Western Australian newspaper.

### **Attachment(s)**

1. Site map
2. Cycleway relocation plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.

## **14.5 (MINUTE NO 3655) (OCM 14/2/2008) - SALE OF PORTION OF LOT 14 HAMMOND ROAD, SUCCESS (55143961) (K SIM) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) accept the offer of \$45,640 exclusive of GST from Hammond Gardens Private Estate No. 2 Pty Ltd for the purchase of 326 square metres of Lot 14 Hammond Road, Success subject to the purchaser meeting all costs associated with the subdivision and application for balance certificate of title; and
- (2) transfer the proceeds of the sale to the Land Development Reserve Account.

### **COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr T Romano that Council:

- (1) defer the decision to sell 326 sq.m. of Lot 14 Hammond Road, Success to Hammond Gardens Private Estate No.2 Pty Ltd;
- (2) enter into negotiations with Hammond Gardens Private Gardens Estate No.2 Pty Ltd for an increased price for the porition of Lot 14; and



- (3) refer to outcome of negotiations to a future meeting of Council for determination.

**CARRIED 6/3**

### **Reason for Decision**

Council believes the current offer by Hammond Gardens Private Estate No 2 Pty Ltd does not reflect what is considered to be a true reflection of the value of the land. Council requires that officers continue to negotiate the price with the company to achieve a better financial outcome for the City and at the conclusion refer the matter back to a future meeting of Council for determination.

### **Background**

Lot 14 is a 15 metre wide strip of land formerly used as an open drain. Its current function is as an over land drainage outlet in the event of a one in a hundred year storm event.

### **Submission**

Hammond Gardens Private Estate No. 2 Pty Ltd has made a written offer to purchase 326 square metres of Lot 14 for a consideration of \$45,640. The 326 square metres is made up of two 13 metre wide road sections.

### **Report**

Hammond Gardens are the subdividers of land north and south of Lot 14. The approved structure plan of the area shows two road connections across Lot 14.

An application to connect the subdivisions has been forwarded to the Western Australian Planning Commission.

The application shows the two road way sections with the balance of the land to remain as a single freehold lot for drainage purposes. Hammond Gardens Private Estate has agreed to beautify the balance of the land in conjunction with the adjoining subdivision works while at the same time maintaining the over land flow drainage function of lot 14.

A valuation report dated 13 September 2007 has been supplied by Wayne Shroy of McGees, Licensed Valuer, acting on behalf of the City. The valuation report determines the market value of the land to be \$45,640 exclusive of GST.



Pursuant to Section 3.58 of the Local Government Act, the proposal was advertised in the West Australian Newspaper. At the conclusion of the statutory advertising period there were no objections to the proposal.

### **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.

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

The proceeds of the sale will be transferred to the Land Reserve Account.

The applicant will meet all costs associated with the required subdivision.

#### **Legal Implications**

Section 3.58 of the Local Government Act 1995 refers.

#### **Community Consultation**

The proposal has been advertised in the Western Australian newspaper.

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

1. Plan of the subject land.
2. Proposed subdivision drawing.

#### **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 14 February 2008 Council Meeting.

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

Nil.

#### **DECLARATION OF INTEREST**

The Presiding Member advised the meeting that he had received a Conflict of Interest from Cllr Romano in relation to Item 14.6, pursuant to Section 5.6(1) of the Land Administration Act 1997. The nature of





the interest is that his mother is the owner of land within the redevelopment Precinct.

CLR ROMANO LEFT THE MEETING AT THIS STAGE THE TIME BEING 7.31 PM.

**14.6 (MINUTE NO 3656) (OCM 14/2/2008) - DEDICATION OF LAND AS ROAD RESERVE PURSUANT TO SECTION 56(1) OF THE LAND ADMINISTRATION ACT 1997 - LOT 66 & 67 ON PLAN 8547, LOT 68 ON DIAGRAM 39170, LOT 66 ON PLAN 9517 (450239) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) request that the Minister for Planning and Infrastructure dedicate Lots 66 and 67 on Plan 8547, Lot 68 on Diagram 39179 and Lot 66 on Plan 9517 as a road, pursuant to Section 56(1) of the Land Administration Act; and
- (2) indemnify the Minister Planning and Infrastructure against reasonable costs incurred in considering and granting this request.

**COUNCIL DECISION**

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

**CARRIED 8/0**

**Background**

The subject land was shown a Rights of Ways on the Survey Plans at the time of the original subdivision. The land has since been used as a public road known as Grandpre Crescent, Hamilton Hill.

**Submission**

The Department of Housing and Works has advised the city that the section of Grandpre Crescent between Phoenix Road and Owen Road, Hamilton Hill has not been vested as a Road Reserve.



## **Report**

The Department of Housing and Works (DHW) in their dealings with the Phoenix Rise project was alerted to the fact that portion of Grandpre Crescent between Phoenix Road and Owen Road was not dedicated as a public road and have drawn this matter to the attention of the City.

Information provided by DHW shows that when Grandpre Crescent was constructed in 1970 it was located down the common boundary of adjoining lots such that each lot provided half of the one chain (20 metre) wide reserve. At that time there was no mechanism for road reserves of less than one chain and as each subdivision only provided half the road reserve they were shown on the diagram of survey as a right of way (ROW) although they functioned as a public road providing access to individual lots. This was a reasonably common practice at the time to overcome a technicality and there have been other instances of this within the City that have been subsequently rectified.

The definition of Grandpre Crescent as a right of way has not been an issue in terms of access to or the servicing of the existing lots. However, until Grandpre Crescent is vested as a road reserve, no further subdivision of the existing lots as may be proposed by the Phoenix Central project will be permitted as all new lots will have to have frontage to a dedicated public road.

Accordingly it is recommended that City request the Minister for Planning and Infrastructure to vest the relevant section of Grandpre Crescent as a public road. The procedure for the dedication is set out in Section 56 of the Land Administration Act 1997. Clause (4) of Section 56 requires the local government to indemnify the Minister in respect to all costs and expenses reasonably incurred by the Minister in considering and granting the request.

## **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**

The dedication is pursuant to Section 56 of the Land Administration Act 1997, which requires the City to indemnify the Minister in respect to all costs and expenses incurred in considering and granting the request. These cannot be quantified at this time but are expected to be minor.



**Legal Implications**

N/A

**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.

CLR ROMANO JOINED THE MEETING THE TIME BEING 7.32 PM.

THE PRESIDING MEMBER ADVISED CLR ROMANO OF THE DECISION OF COUNCIL WHILE HE WAS ABSENT FROM THE MEETING.

**14.7 (MINUTE NO 3657) (OCM 14/2/2008) - ROAD WIDENING - BERRIGAN DRIVE - CLOSURE OF WAKELY CIRCUS, JANDAKOT (450503) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) request that the owner of Lot 31 & 100 Berrigan Drive lodge an application with the Western Australian Planning Commission to widen Berrigan Road at the intersection of Hope Road and provide a suitable drainage sump within Lot 31 to contain stormwater from adjoining road works; and
- (2) on completion of (1) request that the Minister for Planning and Infrastructure close Wakely Circus, Jandakot pursuant to Section 58 of the Land Administration Act 1997.



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Wakely Circus is an unmade dedicated road reserve. Berrigan Drive road pavement has been realigned in conjunction with major road works associated with Roe Highway, Karel Avenue overpass and connection to Jandakot Airport.

**Submission**

Treeland Investments Pty Ltd, owner of Lot 31 & 100 Berrigan Drive has submitted a written request to close Wakely Circus. Treeland is a company closely associated with the lessee company operating the Jandakot Airport (Ascot Capital).

**Report**

The road pavement of Berrigan Drive was realigned in conjunction with Roe Highway interchange at Karel Avenue. The realignment to the east was necessary as part of major modification to Karel Avenue and Hope Road connection to Jandakot Airport. The current road formation and pavement encroaches on to Lot 31 and 100 Berrigan Drive.

The requested road widening will result in the public road being within a dedicated road reserve. Currently stormwater from a large section of the new road works completed as part of the Roe Highway works is directed to an area at the lowest point of Lot 31. This is not acceptable in that a future owner of Lot 31 could deny the City access to the land. There is no alternative location for a stormwater sump.

The outcome of the resolution will be that a request will be sent to the registered proprietors of Lot 31 and 100, Treeland Investments Pty Ltd seeking their agreement to establish the required road widening and drainage sump.

On receiving agreement a request will be forwarded to State Land Services requesting the closure of Wakely Circus and inclusion of the land into Lot 31 and 100.

Treeland Investments Pty Ltd is understood to be a private company owned by the lessee of the Jandakot Airport (Ascot Capital). The closure of Wakely Circus will also facilitate a commercial subdivision of the airport land.



All requirements including advertising and reference to the service authorities as required by Section 58 of the Land Administration Act have been undertaken. No objections were received.

### **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.

#### **Transport Optimisation**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Section 58 of the Land Administration Act 1997.

### **Community Consultation**

The proposal has been advertised in the Western Australian newspaper.

### **Attachment(s)**

Map

### **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 14 February 2008 Council Meeting.

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

Nil.



**14.8 (MINUTE NO 3658) (OCM 14/2/2008) - APPOINTMENT OF REAL ESTATE COMPANY TO CONDUCT PUBLIC AUCTION OF 21 RESIDENTIAL LOTS - BARTRAM ROAD, ATWELL (5516327) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) appoint Raine and Horne, Success to undertake the marketing and sale by Public Auction of 21 Residential Lots – Lot 5 Bartram Road, Atwell;
- (2) through the Chief Executive Officer set reserve prices for the 21 lots in consultation with the appointed real estate company and Licensed Valuers McGees; and
- (3) advise Raine and Horne and the unsuccessful agents of Council's decision accordingly.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Council at its meeting held on 10 August 2006 adopted the minutes of the Strategic Finance and Investments Committee meeting of 28 July 2006 which included:

- (1) receive the Business Plan prepared pursuant to Section 3.59 of the Local Government Act 1995;
- (2) approve the development of Lot 5 Tapper Road into 21 R20 residential lots, excluding lots 6 to 10 and lots 27 to 30;
- (3) proceed to appoint necessary consultants to prepare drawings and specifications sufficient to call public tender to complete the civil works;
- (5) call for public tenders to complete the civil works associated with the subdivision development;
- (6) refer the appointment of the civil works tender back to a future council meeting;



- (7) initiate the rezoning of Lot 27 on subdivision plan from R5 to R20;
- 8) refer the appointment of qualified selling agents to sell twenty one (21) R20 residential lots by public auction back to a future council meeting;
- (9) allocate \$1,500,000 from the Land Development Reserve Fund to cover the costs of the development and amend the 2006/2007 budget accordingly;
- (11) transfer the net proceeds from the sale of the lots to the Land Development Reserve Fund; and
- (12) investigate a higher density for Lots 6 to 10 and 27 to 30.

### **Submission**

Marketing submissions were sought from the six Real Estate companies all being REIWA members located in the closest proximity to the subject land.

Submissions were received from the following companies:

1. Raine & Horne - Success
2. LJ Hooker - Atwell
3. Realty One - Success
4. Tully First National - South Lake

### **Report**

This report refers to point 8 of the SF & I Committee decision, the appointment of a selling agent to market and sell 21 lots comprising Stage 1 by public auction.

Following Council meeting of 10 August 2006 Council resolved at its meeting of 12 November to amend the Town Planning Scheme to rezone portion of Lot 5 from R5 to R20 and another portion from R20 to R30. Final endorsement of the rezoning by the Minister for Planning and Infrastructure is expected towards the end of February 2008. A subdivision application for the land being rezoned (Stage 2) comprising of 25 lots has been lodged with the West Australian Planning Commission with approval expected towards the end of March 2008.

The tender for the civil works to complete both Stage 1 (21 Lots) and Stage 2 was awarded to Brierty Contractors Pty Ltd on 18 November 2007.



The bulk earthworks have been completed with work proceeding with road services for Stage 1. Completion of Stage 1 civil works is expected by the end of February. Titles for the 21 lots should be available within 6 weeks after the completion of all site works. Completion of civil works Stage 2 is expected by the end of March with titles available by the end of May 2008. A marketing program for Stage 2 will be referred to a future Council meeting.

Criteria used to assess the proposals received were:

- Demonstrated successful marketing of similar project
- Demonstrated personnel / expertise
- Demonstrated marketing and back office capability
- Fee structure
- Maximising return to the City

The selection methodology closely follows Council Policy Appointment of Real Estate Agent to sell Council owned Property APD 52. Results of the assessment proposals are contained in the confidential Agenda Attachment. In accordance with the assessment it is recommended that Raine & Horne be appointed.

Lots not sold at auction will be sold by private treaty. Section 3.58 of the Local Government Act allows such sales to be free of the usual advertising and Licensed Valuer reports requirements for 6 months from the date of auction. Reserve prices for each lot at auction will be determined by reference to the appointed real estate company and that provided by licensed valuers McGees. Lots not sold at auction will be sold by private treaty.

### **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**

Marketing costs are allowed for under the overall Budget, subject to Account No. CW1516.

#### **Legal Implications**

Section 56 of the Land Administration Act 1997 refers.





**Community Consultation**

N/A

**Attachment(s)**

Confidential attachment circulated under separate cover.

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

N/A

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

Nil.

- 14.9 **(MINUTE NO 3659) (OCM 14/2/2008) - FINAL ADOPTION OF SCHEME AMENDMENT NO. 60 - REZONING OF LOT 4 PRINSEP ROAD JANDAKOT FROM PUBLIC PURPOSE (WATER CORPORATION) TO RESOURCE ZONE - OWNER: A AZAR, G AZAR & J AZAR - APPLICANT: WHELANS (93060) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Schedule of Submissions;
- (2) adopt Amendment No.60 without modifications and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission; and
- (3) advise the proponent and submissioners of Council's decision accordingly.

**COUNCIL DECISION**

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

**CARRIED 9/0**



## **Background**

Council at its meeting held on 14 June 2007 resolved to initiate Amendment 60 to Town Planning Scheme No. 3 for the purpose of advertising. The amendment was to rezone Lot 4 from Public Purpose – Water Corporation to “Resource” zone and create a 1200m<sup>2</sup> building envelope.

## **Submission**

The amendment was initiated following a request from the applicant to rezone the land to “Resource” zone.

## **Report**

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

The EPA advised that the overall environmental impact of the amendment would not be severe enough to warrant formal assessment under the Environmental Protection Act. The amendment was subsequently advertised seeking public comment in accordance with the Regulations for not less than 42 days. Five submissions were received from service authorities/government agencies providing advice and/or no objections to the proposal.

The proposal involves rezoning the land to “Resource zone” which is consistent with the surrounding land on the eastern side of Prinsep Road. The land was zoned Public Purpose (Water Corporation) as it was intended to be developed as a bore site. The Water Corporation sold the lot to the adjoining landowners (Azar) in 1993 (who was also the original owner of the subject lot) as it was determined that the site was not a suitable location for a bore site.

Given that the land is in private ownership and is not required as a bore site, it is inappropriate for the land to be reserved for Public Purposes. Designating the land for any other purpose would be inconsistent with the MRS Rural – Water Protection zoning and the WAPC Statement of Planning Policy No 6 – Jandakot Groundwater Protection Policy.

It is therefore recommended that Amendment 60 be forwarded to the Western Australian Planning Commission for approval.

## **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**

N/A

**Legal Implications**

Planning and Development Act 2005  
Town Planning Scheme No. 3  
Town Planning Regulations 1967

**Community Consultation**

Following receipt of advice from the EPA, the amendment was advertised for a 42 day period. The 42 day public consultation period for Amendment 60 concluded on 2 January 2008. At the close of the advertising period five submissions were received all from government agencies/service authorities providing advice and/or no objections to the proposal.

**Attachment(s)**

1. Location Plan
2. Proposed Scheme Amendment map
3. Schedule of submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.

**14.10 (MINUTE NO 3660) (OCM 14/2/2008) - FINAL ADOPTION OF SCHEME AMENDMENT NO 62 - AMEND BOUNDARY OF DEVELOPMENT AREA 19 MURIEL COURT AND ADD PROVISIONS WITHIN SCHEDULE 11 DA 19 RELATING TO NORTH LAKE ROAD VEHICLE ACCESS POLICY PLAN - APPLICANT: CITY OF COCKBURN (9666; 93062) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Schedule of Submissions;



- (2) adopt Amendment No.62 without modifications and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission;
- (3) adopt the North Lake Road Vehicle Access Policy Plan; and
- (4) advise the submissioners of Council's decision accordingly.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Council at its meeting held on 13 September 2007 resolved to initiate Amendment 62 to Town Planning Scheme No.3 and the North Lake Road Vehicle Access Policy Plan for the purpose of advertising. The amendment was to amend the boundary of Development Area 19 (Muriel Court) and add provisions within Schedule 11 DA 19 relating to North Lake Road Vehicle Access Policy Plan.

**Submission**

N/A

**Report**

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

The EPA advised that the overall environmental impact of the amendment would not be severe enough to warrant formal assessment under the Environmental Protection Act. The amendment was subsequently advertised seeking public comment in accordance with the Regulations for not less than 42 days. The North Lake Road Vehicle Access Policy Plan was also advertised during this period. Four submissions were received from service authorities/government agencies having no objections to the proposal.

Extending the DA 19 boundary to include the Mixed Business zone will enable a structure plan to be prepared over the area, hence providing greater co-ordination to planning within DA 19. This extension will also



provide a suitable mechanism for Council to incorporate the Vehicle Access Plan into the Scheme by utilising Schedule 11 DA19. The Vehicle Access Plan should be implemented as soon as possible as the City is continually receiving development applications within the Mixed Business zone. The proposed Vehicle Access Plan will not affect structure planning for DA 19 as it only deals with crossover locations and right-of-carriageways along the North Lake Road frontage.

### Conclusion

It is therefore recommended that Amendment No. 62 be adopted by the Council and forwarded to the WA Planning Commission for final approval. The North Lake Road Vehicle Access Policy Plan is also recommended for approval.

### **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.

#### **Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.

### **Budget/Financial Implications**

Costs associated with preparing the documents in-house are already catered for in the budget.

### **Legal Implications**

Planning and Development Act 2005  
Town Planning Scheme No. 3  
Town Planning Regulations 1967

### **Community Consultation**

Following receipt of advice from the EPA, the amendment was advertised for a 42 day period. The 42 day public consultation period for Amendment 62 concluded on 19 December 2007. At the close of the advertising period four submissions were received all from government agencies/service authorities providing no objections to the proposal.



**Attachment(s)**

1. Existing zoning map
2. Proposed zoning map
3. North Lake Road Vehicle Access Policy Plan
4. Schedule of Submissions

**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 14 February 2008.

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

Nil.

**14.11 (MINUTE NO 3661) (OCM 14/2/2008) - PROPOSED SCHEME AMENDMENT NO. 63 TO TOWN PLANNING SCHEME NO. 3 - REZONING OF LOT 503 PHOENIX ROAD, BIBRA LAKE FROM SPECIAL USE 12 (SU12) TO INDUSTRY, MIXED BUSINESS AND LIGHT AND SERVICE INDUSTRY - OWNER: PRIMEWEST - APPLICANT: GREG ROWE AND ASSOCIATES (93063; 9656D) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council subject to the submission of a suitable arboricultural report which identifies and maps the existing vegetation to be retained on the site within the Phoenix Road street verge and adjoining car park area, to the satisfaction of the Manager of Planning Services, the Council:

- (1) resolve to amend Town Planning Scheme No. 3 as follows:

PLANNING AND DEVELOPMENT ACT 2005

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

AMENDMENT NO. 63

Resolved that Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above Town Planning Scheme by:

1. Amending Schedule 4 by removing "Special Use 12 – Paper Mill" and deleting associated special provisions on Lot 503 Phoenix Road, Bibra Lake.



2. Rezoning Lot 503 Phoenix Road, Bibra Lake from “Special Use 12 – Paper Mill” to “Industry”, “Mixed Business” and “Light and Service Industry”
  3. Amending the Scheme Map accordingly.
- (2) adopt Amendment No.63 as outlined in (1) above;
  - (3) sign the amending documents, and advise the WAPC of Council’s decision;
  - (4) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act;
  - (5) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
  - (6) notwithstanding (5) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;
  - (7) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not proceed with the Amendment;
  - (8) prior to the City finally resolving to adopt the Scheme Amendment the applicant shall prepare Design Guidelines for the estate to the satisfaction of the City;
  - (9) the applicant be advised that the City does not support stormwater runoff from the existing box plant facility entering into the proposed Council drainage sump. All stormwater runoff from all lots should be contained on site; and
  - (10) advise the applicant accordingly.



**COUNCIL DECISION**

MOVED Cllr J Baker SECONDED Cllr V Oliver that that the proposed amendment to Town Planning Scheme No.3 for Lot 503 Phoenix Road, Bibra Lake be deferred to allow further discussions between the applicant and Council, with regard to the landscape buffer and the interface of the site with the adjoining residential land (opposite Phoenix Road).

**CARRIED 9/0**

**Reason for Decision**

The applicant has formally requested the matter be deferred as they are aware that an alternative motion was being considered by Council in respect to the provision of a landscape buffer along Phoenix Road and therefore wish to discuss Council's requirements and develop a potential solution that is satisfactory to both parties.

**Background**

The subject site currently occupies the Amcor box plant and recycling paper mill plant. The paper mill was established in circa 1966 and ceased operating recently. The box plant was established in 1993 and continues to operate from the site. The applicant wishes to rezone and subdivide the site whilst retaining the centrally located box plant facility.

**Submission**

Greg Rowe and Associates on behalf of Primewest have requested the land be rezoned to Industry, Mixed Business and Light and Service Industry in keeping with the surrounding Industrial land within Bibra Lake. This will ensure that commercial/industrial development can be constructed on the future subdivided lots.

**Report**

The subject site is currently zoned Special Use 12 (SU12) which allows the site to be used for Paper Manufacturing and associated uses only. The existing zoning of the land was specifically established to protect the paper mill operations and to provide a mechanism within which there is flexibility for the paper mill to operate. The site has been used for the very specific purpose of a paper mill for over 40 years.

The paper mill ceased operating recently and only one component of the paper mill operation (the box plant) will continue to operate. Accordingly, it is appropriate for the land to be rezoned so that it will allow the use of the land in a manner which is consistent with the "Industrial Zoning" under the provisions of the Metropolitan Region





Scheme, and which recognises the predominant existing land use pattern within the locality.

The proposal is to rezone the land to Industry, Mixed Business and Light and Service Industry (refer attachment 2). The northern section of the site is proposed to be Mixed Business as it has a higher degree of commercial exposure and provides a suitable transition to the residential land which is located on the northern side of Phoenix Road. The remainder of the site is proposed to be Light and Service Industry and Industry and is located approximately 240m from the nearest residential land. This proposed separation between Industrial and residential is an improvement to the situation which currently exists along Phoenix Road and assists in addressing the setback distances contained within the EPA Policy on Separation Distances between Industrial and Sensitive Land Uses.

It is noted that a subdivision application has been lodged on the site and the City has requested that the application be deferred until the Scheme Amendment has been resolved.

#### Road network

A concept plan has been submitted which demonstrates how the site can be developed. The proposed plan shows two road intersections to Phoenix Road with one of these being the upgrading of the existing driveway access to the site and has been justified through a traffic report. A Right of Carriageway system is proposed for the lots fronting Phoenix Road to ensure that no lots have direct vehicle access to Phoenix Road, improving traffic flow and safety. The City's Engineering Department is satisfied with the road network.

#### Drainage

A Drainage and Nutrient Management Report has been submitted which demonstrates that all stormwater runoff from the road network can be contained within the proposed drainage sump. However the report suggests that the stormwater runoff from the existing box plant facility will drain into the proposed Council drainage sump which is not acceptable as all stormwater runoff is required to be contained on individual lots.

#### Design

New Commercial/Industrial estates within the City are typically accompanied by Design Guidelines to ensure that appropriate levels of development and amenity are achieved. The applicant at the request of the City has agreed to prepare Design Guidelines which will be approved prior to the final adoption of the Scheme Amendment by the City.



### Retention of vegetation

A number of native trees exist along the Phoenix Road frontage, within the street verge and site boundary. These trees provide a natural and unique streetscape and a suitable interface to the residential properties located across Phoenix Road. Any further development on the site should be designed to retain as many trees as possible whilst still providing a suitable level of commercial exposure from Phoenix Road. To date the City has not received an acceptable Arboriculture Report or plan which identifies and maps the trees to be retained. The initiation of the amendment should therefore be subject to the submission of a suitable Arboriculture Report to the satisfaction of the Manager of Planning Services.

### Existing box plant facility

The existing box plant facility is proposed to be retained. A recent development approval allowed for an extension to the facility within the proposed lot boundaries and satisfies the provisions of the Scheme. The box plant facility will comply with the Industrial zoning proposed under this amendment.

### Conclusion

The proposed Scheme Amendment is necessary as the paper mill has ceased operating and the restricted nature of the existing zoning does not allow other uses to operate from the site. The proposed Scheme Amendment is consistent with the "Industrial Zoning" under the provisions of the Metropolitan Region Scheme and is consistent with the existing local town planning scheme zoning within the Bibra Lake Industrial area. It is therefore recommended that Council proceed to initiate the Scheme amendment, subject to the submission of a suitable Arboriculture Report, which identifies and maps the trees to be retained particularly along the Phoenix Road frontage.

### Policies

APD2 Industrial Subdivision Policy

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

#### **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.

**Budget/Financial Implications**

N/A

**Legal Implications**

Planning and Development Act 2005  
Town Planning Scheme No. 2  
Town Planning Regulations 1967

**Community Consultation**

The proposed Scheme Amendment will be advertised for a period of 42 days with notices in the local paper and letters sent to relevant government agencies, affected landowners and surrounding community upon initiation of the amendment.

**Attachment(s)**

1. Location plan
2. Proposed zoning plan
3. Concept plan

**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 14 February 2008 Council Meeting.

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

Nil.

**14.12 (MINUTE NO 3662) (OCM 14/2/2008) - GROUPED DWELLING - 2 X TWO STOREY DWELLINGS - 42 GORDONA PARADE BEELIAR - OWNER: LRC PTY LTD - APPLICANT: LRC PTY LTD (65008193) (C SCHOOLING) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant planning approval for two grouped dwellings at Lot 736 (No. 42) Gordona Parade, Beeliar, in accordance with the approved plan subject to the following conditions:-



STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement or carrying out of the development.
3. No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a 2 metre truncation.
4. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
5. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
6. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.

SPECIAL CONDITIONS

7. A privacy screen is to be installed to the north side of the Retreat window on the northernmost dwelling, to prevent overlooking into the adjoining lot to the satisfaction of the City.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. Issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of approval).



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Zoning:	MRS:	Urban
	TPS3	Residential R40
Land Use:	Grouped Dwelling	
Lot Size:	0.0535 Ha	
Use Class:	Permitted 'P'	

Council received two applications for two grouped dwellings each, on lots 736 and 737 Gordona Parade, Beeliar, on 20 September, 2007. The applications proposed similar dwellings across the two lots, with a view to maximising the outlook to the west from the upper storey. Since the original submission extensive consultation has occurred between the applicant and Council officers regarding the design of the grouped dwellings and their impact on the streetscape.

**Submission**

The submission being assessed by the City consists of revised plans of two grouped dwellings which have taken consideration of recommendations by Council officers regarding building design and street address. The applicant has stated a desire to accommodate the City's recommendations with a view to presenting an attractive development when viewed from the street, with key elements of functionality for occupants. A major concept which arose from discussions between the City and the applicant was the staggering of the front setbacks across the four proposed dwellings, in an effort to create an interesting streetscape. Additionally, bringing the wall of the first floor 0.6 metres forward of the garage is intended to reduce the visual impact of the garage door from the street, particularly when all four dwellings are viewed as a streetscape element.

**Report**

Variations to the Residential Design Codes 2002 (R-Codes) were advertised to adjoining owners for a period of 14 days. The variations advertised were overlooking issues from the first floor Retreat window and an over height parapet wall to the north boundary of the lot. The parapet wall is over height for a portion of its length to accommodate an internal staircase. During the advertising period one objection to the proposed development was received.



At the completion of the advertising period one letter of objection was received pertaining to the height of the parapet wall, the overlooking from the Retreat window, the reduced front setback and overshadowing.

### Parapet Wall

The submissioner objected to the height of the entire parapet wall, stating that the adjoining block is 0.9 metres lower than the lot subject to this report. As a result, according to the submissioner, the proposed parapet wall would be 0.9 metres higher across its length when viewed from the adjoining lot.

The City assesses the height of walls based on the natural ground level of the lot in question and not on adjoining lots. The height of the proposed parapet wall varies from the R-Codes only across the portion where it steps up to accommodate the staircase. In total, the proposed parapet wall is over height by 1.5 metres for a length of 2.6 metres along the north boundary of the lot. The remainder of the parapet wall is compliant with the R-Codes, and therefore does not require advertising to adjoining property owners. According to Clause 3.3.2 A2iii of the R-Codes, parapet walls are permitted to extent to a height of 3.5 metres in R40 zoned areas.

From a planning perspective the proposed higher section of the parapet wall is acceptable as it presents a minor variation to the R-Codes. The proposed wall is situated on the south boundary of the adjoining lot, and therefore it poses no overshadowing issues. Additionally, the City would be willing to consider a similar parapet wall on the adjoining lot based on its merits, in order to minimise the impact the proposed parapet wall in question has on adjoining properties.

### Overlooking

The submissioner objected to the west facing window to the first floor Retreat, as it posed a cone of vision intrusion into the rear of the adjoining lot. The applicant aims to maximise views to the west from the first floor, and has hence included a large window to the Retreat.

Consultation with the applicant regarding this objection has led to an agreement to install a privacy screen to the north side of this window, to prevent overlooking into the adjoining block. A condition to this effect has been included in Council's recommendation (Condition 7). It should be noted that no responses to the advertising of overlooking issues were received from the owners of the lots to the rear of Lot 736 Gordona Parade, despite the cone of vision intrusions being slightly greater in this area.

From a planning perspective the installation of a privacy screen to the retreat window is an acceptable solution to this objection, as it prevents



overlooking into the adjoining lot whilst maintaining views from the first floor, which was one of the major design intentions of this development. The installation of a privacy screen to the retreat window would make this element of the development compliant with the R-Codes.

### Reduced Front Setback

The reduced front setback to the northern dwelling drew an objection from the submissioner. According to R-Codes Clause 3.2.1 A1i garages and carports are to be setback 4.5 metres from the primary street. Assessed on performance, however the proposed garage setback of 3.3 metres is acceptable given the width and area limitations of the block, and the similar reduced garage setback of the three dwellings to the south of the abovementioned dwelling.

The City believes that maintaining the 3.3 metre reduced garage setback will complement the development when viewed from the street, as it presents an element of continuity across the four dwellings proposed. Furthermore, the original submission proposed a front setback of 2.0 metres. Through extensive discussions between Council officers and the applicant a negotiated setback of 3.3 metres was reached. The submissioner's comments regarding excessive bulk and scale could be addressed with landscaping to the north boundary of the lot.

From a planning perspective the 3.3 metre reduced garage setback is acceptable given the extent of consultation with the applicant regarding the original submission. The applicant has endeavoured to present an appealing development whilst maximising space. Indeed it is considered that the 3.3 metre setback will positively address the street as it complements the other three dwellings proposed by the applicant, and it is not inconsistent with the reduced setbacks typically associated with medium density development in an R40 zone. The impact of the garage has been reduced by bringing the first floor 0.6 metres forward, making this the primary element in the streetscape.

### Overshadowing

The submissioner cited both the proposed parapet wall and the reduced front setback as presenting overshadowing issues to the adjoining lot. As the proposed development is situated to the south of the adjoining lot, overshadowing from the development is not an issue due to the northerly path of the sun. Additionally the proposed parapet wall variation is minimal and is not envisaged to inhibit solar access to the adjoining lot. It is therefore considered that the proposed development does not present overshadowing issues to the adjacent lot along the north boundary.



### **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.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3

### **Community Consultation**

Consultation with two adjoining owners likely to be affected by the proposed development was undertaken for a period of 14 days. As a result of the advertising one letter of objection was received.

### **Attachment(s)**

1. Location Plan indicating submissioner.
2. Site plan, floor plan and elevations for the proposed development.

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

The Proponent and submissioner and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.

**14.13 (MINUTE NO 3663) (OCM 14/2/2008) - RETROSPECTIVE APPLICATION FOR PATIO, GAZEBO, GARDEN SHED AND FRONT FENCE - LOT 656 (NO.62) CASTELLON CRESCENT, COOGEE - OWNER/APPLICANT: F PARATORE (3316581) (V LUMMER) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant retrospective approval to the patio, gazebo, shed and front fence on Lot 656 (No 62) Castellon Crescent, Coogee in accordance with the approved plan subject to the following





conditions:-

1. Development can only be undertaken in accordance with the terms of the application as approved herein and any approved plans.
  2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
  3. All stormwater being contained and disposed of on-site to the satisfaction of the City.
  4. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00 pm or before 7.00 am, Monday to Saturday, and not at all on Sunday or Public Holidays.
  5. Retaining wall(s) being certified by a qualified Structural Engineer.
  6. The shed is to be altered, or the boundary relocated, so that the shed is constructed wholly within lot 656. Alternatively an easement can be granted over the neighbouring property.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval); and
- (3) advise the submissioner(s) of (1) above.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Zoning:	MRS:	Urban
	TPS3	Residential R 20
Land Use:	Residential	
Lot Size:	768m <sup>2</sup>	
Use Class:	Single House "P"	



The structures the subject of this application are either completed or partially completed. The development was brought to the City's attention by a neighbour. The City advised the owner to stop work on the structures and seek the appropriate approvals prior to continuing with the completion of the structures.

### **Submission**

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

- At the time of purchase of this property in May 2007, the property had a pergola of the same size in the same location as the proposed patio.
- There was a shed on the boundary in a similar location to the proposed gazebo.
- The painted super 6 fence was replaced with a new rendered (on both sides) brick fence at the owners cost.
- The improvements made to my property do not disrupt the neighbouring property, if anything they improve value, aesthetics and privacy to both properties.

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 Residential R 20, 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 proposal is for retrospective approval for:

- A shed which requires a variation to the site setback (1 m required, 0 m provided). The shed is actually constructed 2.5 cm into the adjoining property and the owner of the adjoining property has submitted a letter of consent for the structure to be on her property.
- A gazebo which requires a side setback variation (1 m required, 700mm provided).
- A patio which requires a side setback variation (1.6 m required, 600mm provided).
- The front fence which complies with the Acceptable Development Provisions of the Residential Design Codes.



The development which preceded the patio and gazebo consisted of a patio and shed. There is no record of these structures being approved by Council.

The photos supplied by the applicant indicate the shed constructed to the boundary and the patio about 500mm from the boundary. The patio had a portion of flat roof and a portion of pitched roof. The shed was a flat roof structure, but would have been visible by the neighbour above the fence line.

The objection received from the neighbour to the east raises the issue of the plans being incorrect. The applicant has submitted revised plans which accurately reflect what has been constructed on site.

It is considered that the proposed structures, the subject of this application, once fully completed will have no greater impact upon the amenity of the adjoining owner than those structures that were previously in place.

The shed is constructed 2.5 cm into the western neighbour's property. The neighbour has provided a letter of support for the structure; however, from a planning and building (BCA) point of view, the structure should be approved wholly within one property. This can be achieved by removing one course of bricks from the wall, or by realigning the boundary, alternatively an easement can be granted by the adjoining owner. A condition is recommended to ensure that this takes place.

#### Recommendation

It is recommended that the application be approved subject to conditions. The impact of the proposed structures on the amenity neighbouring property is not considered to be greater than the previous development on site and once, completed should present a high standard of development. The front fence complies with requirements. The shed is recommended for approval subject to resolution of the issue of construction over the boundary.

#### **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**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Residential Design Codes 2002  
Planning and Development Act 2005  
State Administrative Tribunal Regulations

### **Community Consultation**

The application has been advertised to the two abutting owners affected by the setback variations in accordance with the Residential Design Codes. One submission of objection has been received. The issues raised in the objection are:

- Patio and gazebo are too close to the boundary affecting amenity
- The structure runs along the length of neighbours alfresco and backyard.
- Structures were installed without the necessary approvals.
- The plans are not correct

### **Attachment(s)**

1. Location Plan
2. Site Plan and elevations
3. Applicant's submission
4. Objection with photos

### **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 14 February 2008 Council Meeting.

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

Nil.



**14.14 (MINUTE NO 3664) (OCM 14/2/2008) - RETROSPECTIVE APPLICATION FOR PRIVATE RECREATION - LASER SPORTS - LOT 106 Gwilliam Drive, Bibra Lake - OWNER: PETER RATTIGAN - APPLICANT: LASER SPORTS (1100266) (V LUMMER) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant retrospective approval for Private Recreation (Laser Sports) on Lot 106 Gwilliam Drive, Bibra Lake in accordance with the approved plan subject to the following conditions:-
  1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
  2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
  3. All stormwater being contained and disposed of on-site to the satisfaction of the City.
  4. The maximum number of patrons on site at any one time is 36 and the maximum for any one day is 100.
  5. This development has been defined as a public building and shall comply with the provisions of the Health Act 1911 relating to a public building, and the Public Building Regulations 1992. An application to construct, extend or alter a public building is to be submitted.
  6. The applicant is to obtain written consent from the Managers of Adventure World for shared parking on the adjacent Reserve 26954; and
- (2) advise those submissioner(s) of (1) above.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr V Oliver that Council:

- (1) grant retrospective approval for Private Recreation (Laser Sports) on Lot 106 Gwilliam Drive, Bibra Lake in accordance with the approved plan subject to the following conditions:-
  1. Development may be carried out only in accordance with the terms of the application as approved herein and any

approved plan.

2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the City.
4. The maximum number of patrons on site at any one time is 36 and the maximum for any one day is 100.
5. This development has been defined as a public building and shall comply with the provisions of the Health Act 1911 relating to a public building, and the Public Building Regulations 1992. An application to construct, extend or alter a public building is to be submitted.
6. The applicant is to obtain written consent from the Managers of Adventure World for shared parking on the adjacent Reserve 26954; and
7. The applicant shall provide screening along the western boundary of Lot 106 Gwilliam Drive (abutting Lot 10 Gwilliam Drive, the Perth Waldorf School site), to the satisfaction of the Manager Planning Services, prior to the proposed use being conducted from the subject property.

**FOOTNOTE**

1. In the event that screening has been erected by the owners of Lot 10 Gwilliam Drive, the applicant may undertake negotiations with owners of Lot 10 in respect of reimbursement of costs in order to satisfy Condition 7.
- (2) advise those submissioner(s) of (1) above.

**CARRIED 8/1**

**Reason for Decision**

The Perth Waldorf School has advised that they consider that the proposed use has connotations of violence and non-peaceful ways of conflict resolution, which are inconsistent with the school's core values. As a result of these concerns the school erected screening along their common boundary in August last year, when the problem first arose. This has allowed the school to continue its normal school activities and after-school activities without directly viewing people shooting at each other with laser guns. Given the circumstances the applicant should be



required to screen the proposed use and if the screening is already in place should pay at least half the cost of the screening.

### Background

Zoning:	MRS:	Rural
	TPS3	Special Use 7 – Private Recreation and may include an Educational Establishment, Health Studio, Reception Centre, Restaurant, Caretakers Residence, Club Premises, Child Care Centre, Place of Public Worship and Fast Food.
Land Use:	Already used for Laser Sports, without approval This property also houses Bungee West, on a separate lease area.	
Lot Size:	2.6153 ha	
Use Class:	Private Recreation	

5 February 1992 – Council approval for Bungee Tower.

### Submission

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

- Laser Sports is a co-operative, competitive, non-contact team sport, suitable from ages 8 to adult.
- The equipment uses infra-red technology similar to television remote controls, there are no projectiles fired and no risk to eyesight.
- Perth Laser Sports has an agreement to use Bungee West employee parking, toilet and kitchen facilities.
- The maximum number of patrons at any one time is 36 and staffs are 3.
- The Environmental Noise Assessment demonstrates that the proposed use complies with the Environmental Protection (Noise) Regulations 1987.
- Physical development on the land consists of one Camouflage Base and numerous empty 200L drums. There is one sign on the Bungee West lease area facing the Adventure World car park.

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 *Special Use 7 – Private Recreation and may include an Educational Establishment, Health Studio, Reception Centre, Restaurant, Caretakers Residence, Club*



*Premises, Child Care Centre, Place of Public Worship and Fast Food*, under the City of Cockburn's Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

Proposed use is defined as Private Recreation under the Scheme. The use for Private Recreation is considered compatible with the zoning of the land.

As the site abuts an area which is reserved under the Metropolitan Region Scheme for Parks and Recreation the application was referred to the Western Australian Planning Commission (WAPC) for comment. The WAPC had no comment on the application, other than to recommend approval.

The Town Planning Scheme car parking requirement for Private Recreation is 1 bay per 4 people accommodated. A maximum of 36 patrons is proposed, requiring 9 bays.

No car parking is provided on site as it is proposed that the patrons utilise the car park situated on the adjacent land owned by the City of Cockburn, Reserve 26954. Adventure World and Bungee West also utilise this car park. This is considered acceptable.

The City's Environmental Health section is satisfied with the details of the application, provided no more than 100 persons utilise the facility per day. This restriction is imposed due to the capacity of the existing septic tanks on the Bungee West lease area that are to be utilised by Laser Sports. This is recommended as a condition of approval.

In regard to the objection received during advertising, it is noted that the proposal complies with the Noise Regulations. The applicant has noted that many school groups use the facility and that the drums will be deodorised further to avoid any smells.

### Conclusion

The issues raised in the letter of objection are not considered to be sufficient to recommend refusal of this application.

The parking arrangements are considered satisfactory and the use is compatible with the zoning. For these reasons, the application is recommended for approval.

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

#### **Demographic Planning**

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





**Infrastructure Development**

- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

**Lifestyle and Aspiration Achievement**

- To facilitate and provide an optimum range of community services and events.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

The application was advertised for comment from the two adjoining properties, owned by The Perth Waldorf School and Adventure World. One objection was received from The Perth Waldorf School.

The basis of the objection is:

- Noise may be audible in the teaching areas of the school
- The war like activities conflict with the values of the Curriculum Council
- Object to activities during school hours
- Laser sports may impact on our activities outside school hours.
- There is already a similar activity in the area
- The drums appear to give off chemical smells

The full submission is located in the agenda attachments.

**Attachment(s)**

1. Location Plan
2. Site Plan and facilities
3. Applicant's submission
4. Objection from The Perth Waldorf School

**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 14 February 2008 Council Meeting.

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

Nil.



**14.15 (MINUTE NO 3665) (OCM 14/2/2008) - RETROSPECTIVE ANCILLARY ACCOMMODATION - 16 GRANT PLACE BANJUP - OWNER/APPLICANT: COLIN JAMES FRICHOT & GLENDA BERYL FRICHOT (5513604) (C SCHOOLING) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant its approval for retrospective ancillary accommodation at Lot 42 (No.16) Grant Place, Banjup, in accordance with the approved plan subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
4. The ancillary accommodation must only be occupied by member(s) of the same family as the occupiers of the main dwelling.
5. The existing structures must be screened from view from any public street or reserve and/or surrounding properties by existing and/or proposed vegetation as approved by the City.
6. No removal of vegetation is permitted, except in the following circumstances:-
  - (a). To build a house and any associated outbuildings or other approved structures;
  - (b). To construct a driveway;
  - (c). To remove vegetation that is dead, diseased or dangerous; or
  - (d). To construct a three metre wide fire break around the perimeter of the property.

SPECIAL CONDITION

7. A notification under Section 70A of the Transfer of Land Act is to be prepared in a form acceptable to the Council



and lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot. This notification is to be sufficient to alert prospective purchasers of the use and restrictions of the ancillary accommodation as stipulated under Condition 4 of this approval. The notification should (at the full cost of the applicant) be prepared by the Council's Solicitor McLeods and be executed by both the landowner and the Council.

#### FOOTNOTE

1. The development is to comply with the requirements of the Building Code of Australia.
2. Issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval).

#### **COUNCIL DECISION**

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

**CARRIED 9/0**

#### **Background**

Zoning:	MRS:	Rural – Water Protection
	TPS3	Resource
Land Use:	Single House with Ancillary Accommodation	
Lot Size:	2.2247ha	
Use Class:	In accordance with Statement of Planning Policy 2.1 and 2.3	

The existing ancillary accommodation and associated hardstand were installed on-site in 1999 without the prior approval of the City of Cockburn. Since that time it has been occupied by immediate family members of the family residing in the primary dwelling on the property. The ancillary accommodation is made up of four 12.0 metre by 3.0 metre transportable units which are joined together, giving a total floorspace of 144.0 square metres. A carport is attached to the northern elevation of the ancillary accommodation and the building is connected to two septic tanks which in turn are connected to two leach drains.



## Submission

The City received a retrospective application for ancillary accommodation on 23 November 2007. The application included a site plan, floor plan and elevation of the ancillary accommodation, as well as specifications from Australia Wide Transportables regarding the demountable units.

The site plan clearly indicates that the ancillary accommodation is separated from the main dwelling by two fences with gates. In addition to its own access off Bartram Road, this indicates that the existing ancillary accommodation was intended to have some form of separation from the main dwelling.

In assessing the application a letter was sent to the applicants regarding the relationship of the inhabitants of the ancillary accommodation to those of the main dwelling on the lot. The applicant's response in a telephone conversation was that only immediate family members were residing in the ancillary accommodation.

The retrospective application was advertised to four adjoining affected owners for a period of 14 days regarding the TPS No. 3 and APD11 variations. During that time three responses were received, two having no objection to the application and one being of a neutral position. One of the responses which did not object was on the basis that the ancillary accommodation will only be occupied by members of the same family as the primary dwelling, in accordance with Scheme and Policy requirements. Concerns were raised by two respondents regarding use of the ancillary accommodation as a separate dwelling with the possibility of it being rented out as such.

The applicants have provided the following justification in support of their request:

- The ancillary accommodation was originally erected to provide accommodation for their son as a transition phase prior to him enlisting in the Army.
- The applicant's daughter then resided in the ancillary accommodation, followed by their son and his wife on his return from the Army.
- Some grass and trees have been planted around the ancillary accommodation, particularly on the western side closest to adjoining properties.
- The removal of natural vegetation has been kept to a minimum to protect wildlife habitats which are prevalent around the property.

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



## Report

The subject land is zoned Resource under the City of Cockburn Town Planning Scheme No. 3. The intent of the Resource Zone is to provide for the protection of the Perth Metropolitan underground water resource in accordance with the requirements of Statement of Planning Policy No. 2.3 published by the Western Australian Planning Commission on 12 June 1998.

Subject to Clause 5.10.2 (a) of TPS No. 3 only one single house may be erected on a lot. According to Clause 5.10.2 (f), ancillary accommodation is permitted in the Resource Zone, as long as the net area of the ancillary accommodation does not exceed 60.0 square metres. The existing ancillary accommodation has a net area of 144.0 square metres. The City and adjoining owners also had concerns that the ancillary accommodation was intended to be used as a separate dwelling; however, advice from the applicant is contrary to this concern.

As no objections to the retrospective application were received, and a desktop search revealed no history of complaints regarding the ancillary accommodation, it is considered that the application does not present significantly adverse impacts to the locality to warrant its discontinuance. Aside from the size of the ancillary accommodation, the application complies with all other requirements of TPS No. 3 and APD11 regarding ancillary accommodation in the Resource Zone.

It should be noted that it is not desirable to create a precedent for further ancillary accommodation development of this size in the Resource Zone. For this reason Council should consider adjoining owner comments regarding the application and the concern that the ancillary accommodation could potentially be inhabited by persons who are not related to the residents of the main dwelling on the lot. In this respect Conditions 4 and 7 of Council's recommendation are intended to restrict the existing and future inhabitants of the ancillary accommodation.

From a planning perspective the retrospective application will not negatively affect the amenity of the locality in that adjoining owners have not objected to the development and the fact that it has remained in-situ for approximately eight years without documented objections from adjoining and nearby owners. This perspective is also subject to the planting of vegetation around the ancillary accommodation in accordance with Clause 5.10.5 (c) (ii) of TPS No. 3, to reduce its visual impact from Bartram Road and adjoining properties. Therefore, it is recommended that Council use its discretion to support the application.



### **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.

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

N/A

#### **Legal Implications**

Town Planning Scheme No. 3

#### **Community Consultation**

Consultation of four adjoining owners likely to be affected by the ancillary accommodation was undertaken for a period of 14 days. As a result of the advertising two letters of no objection were received and one letter of a neutral perspective was received.

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

1. Location Plan indicating Submissioners
2. Site plan, floor plan, elevations

#### **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 14 February 2008 Council Meeting.

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

Nil.

**14.16 (MINUTE NO 3666) (OCM 14/2/2008) - CHANGE OF USE TO GENERAL INDUSTRY (LICENSED) - 27 BARBERRY WAY BIBRA LAKE - OWNER: TALISKA SECURITIES PTY LTD - APPLICANT: PLANNING SOLUTIONS (AUST) PTY LTD (4413748) (C SCHOOLING) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) upon submission of comprehensive Works Approval information, to the satisfaction of the City, approve the application for a change of use to General Industry – Licensed at Lot 207 (No.



27) Barberry Way, Bibra Lake, subject to:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
4. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
5. Landscaping and tree planting to be undertaken in accordance with the approved plan prior to the occupation of the site.
6. Not less than one shade tree being planted in the car park for every 10 car parking spaces provided on-site
7. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council.
8. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the Council in the event that sand or dust is blown from the site.
9. All stormwater being contained and disposed of on-site to the satisfaction of the City.
10. Works depicted on the approved parking plan shall be maintained to the satisfaction of the Council.
11. The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of the Council.
12. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian



Standards for Offstreet Carparking (AS/NZS 2890.1: 2004) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the Council.

13. Carbay grades are not to exceed 6% and disabled carbays are to have a maximum grade 2.5%.
14. A plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the Council as a separate application. The application (including detailed plans) and appropriate fee for a sign licence must be submitted to the Council prior to the erection of any signage on the site/building.
15. Where petrol, benzine or other inflammable or explosive substances or grease, oil or greasy/oily matter may be discharged, a sealed washdown area and a petrol/oil trap (gravity separator) must be installed and connected to the sewer, with the approval of the Water Corporation and Department of Environment, Water and Catchment Protection.
16. The premises must clearly display the street number and where there is no street number allocated to the property, the lot number must be displayed instead.

#### SPECIAL CONDITIONS

17. Waste water produced as a result of use of the washdown bay and/or washing down the floor of the premises is classified as Liquid Waste as per the City of Cockburn (Local Government Act) Local Laws 2000. These Local Laws prohibit any liquid waste being discharged to a stormwater system. The "Humeceptor" treatment system and all generated liquid waste must discharge to sewer.
18. Sound levels created shall not exceed the provisions of the Environmental Protection (Noise) Regulations 1997.
19. The storage of both pre-separated material and post separated material should not provide harbourage for rodents and other pests.





20. Site fencing to be assessed on a frequent basis and all wind blown litter is to be disposed of properly. Premises operation and tipping of light waste materials is to be conducted in such a way as not to create a nuisance to surrounding premises.
21. The enclosure designated for the storage of tyres is not permitted to discharge any waste materials to the groundwater or surrounding environment. All liquid waste is to be captured and disposed of at an appropriate off-site facility.
22. The premises are to be assessed by the City's Environmental Health Officer prior to occupation. Please contact the City's Health Service on 9411 3589 to arrange an appointment.

#### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. Submission of mechanical engineering design drawings and specifications, together with certification by the design engineer that satisfy the requirements of the Australian Standard 3666 of 1989 for Air Handling and Water Systems, should be submitted in conjunction with the Building Licence application. Written approval from the Council's Health Service for the installation of air handling system, water system or cooling tower is to be obtained prior to the installation of the system.
3. The approval of the Environmental Protection Authority may be required prior to development under the provisions of the Environmental Protection Act 1986.
4. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
5. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed the prescribed by the *Environmental Protection (Noise) Regulations 1997*.



6. Bin storage facilities to be provided to the satisfaction of the Council's Health Service. Such facilities are to be enclosed, graded to a central drain, connected to the sewer and provided with a hose cock.
  7. Uncovered parking bays shall be a minimum of 5.4 x 2.4 metres, clearly marked on the ground and served by a 6.2 metre wide paved accessway in accordance with AS/NZS 2890.1: 2004.
  8. General Industry (Licensed) is defined in the Council's Town Planning Scheme as: *an industry which is a category of prescribes premises set out in Schedule 1 of the Environmental Protection Regulations, notwithstanding the production or design capacity for each category of prescribed premises specified in the Schedule, but where a prescribed premises is also included in Schedule 2 of the Health Act, the Health Act prevails, for the purpose of the Scheme.*
  9. Storage yard walls are to be constructed to a height of 2.0 metres and be made of an opaque material.
  10. Advertising signs must be attached to the walls or façade of the building or structure so as not to protrude above the height of the wall to the building or the structure; and any other conditions required as a result of the additional information received.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of approval).

**COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr J Baker that Council defer the application for a change of use to general industry (licensed) for 27 Barberry Way, Bibra Lake until a later meeting of Council.

**CARRIED 9/0**

**Reason for Decision**

The applicant, Planning Solutions, has requested that consideration of the matter be deferred to allow them to prepare and lodge with Council full details of their proposed environmental management of the use (as required for the DEC works approval). It will also enable the applicant



to present these details to the Yangebup Progress Association (YPA) and discuss any concerns that the residents might have prior to Council's determination. The applicant has indicated that they are prepared to present the proposal to the YPA at the Association's March meeting.

### Background

Zoning:	MRS:	Industrial
	TPS3	Industry
Land Use:	General Industry (Licenced)	
Lot Size:	1.6153Ha	
Use Class:	Discretionary 'D'	

The lot in question is located on Barberry Way in Bibra Lake. There is currently a single building on the lot incorporating a warehouse with a floor space of 7,868 square metres and an office with a floor space of 100 square metres. This structure was approved as a warehouse in 1988. The lot in question is surrounded on four sides by similar industrial land uses. The applicant states that the site, whilst currently being unoccupied, was last used as a storage and distribution facility. The applicant indicates that the site and the building are ideal in terms of floor space and location for the proposed change of use.

### Submission

Council received a change of use application to General Industry (Licensed) on 21/12/2007 for the subject site. The applicant proposes a 'Materials Recycling (Tyres and Plastic) Facility' on the site. The proposed development incorporates a material shredding machine, a tyre recycling and granulating plant and a plastic granulating plant. Since the original submission the proposed development has been discussed in detail with the applicant and Council officers, and as a result issues raised by the City's Environmental Health Department are currently being addressed. The applicant has expressed a desire to address all issues raised by the City's officers in discussions regarding the proposal.

The report to Council concentrates on issues pertaining to car parking provision. There are some issues which the City's Environmental Health Department require clarification on but these details can be assessed under delegated authority. The application requires Council's consideration for the reduction in car parking.

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



## Report

From a planning perspective there are two main issues with the proposed development. The proposed car parking is less than the prescribed amount in TPS No. 3, and the landscaping provision is not sufficient in terms of the amount of shade trees proposed.

### Car Parking

According to TPS No. 3, the car parking required for the proposed change of use to General Industry (Licensed) is 160 bays, based on a ratio of 1 bay per 50m<sup>2</sup> of gross leasable area for General Industry (Licensed) and 1 bay per 50m<sup>2</sup> of gross leasable area for Office. The applicant originally proposed 91 car parking bays, including one disabled bay.

The applicant states that the proposed change of use will result in the requirement to accommodate a maximum of 15 employees at any one time. As the proposed facility comprises high levels of automation the actual staff numbers are inherently low. Additionally there is little requirement to provide visitor parking, as the proposed change of use does not incorporate land uses which would have a high extent of on-site client activity, such as a showroom or warehouse. Consequently from a planning perspective the reduction in car parking is considered acceptable.

Consultation with the applicant and their client revealed that it is possible to accommodate greater landscaping and an outdoor relaxation area for staff of the facility if the car bay numbers are further reduced. Subsequently the revised site plan indicates a total car parking provision of 74 bays, including one disabled bay, in all a reduction of 17 bays from the original proposal and 85 bays less than the amount required under the TPS No. 3 provisions. This further reduction is considered acceptable as it still proposes an adequate amount of car bays for the staff of the facility, whilst allowing for an outdoor amenity area for the use of staff during breaks. This reduction in car parking by 54% requires Council approval as no delegated authority exists to approve a variation of this size.

### Landscaping

The existing landscaping on the site will be retained as part of the proposed change of use. This includes the landscaping to the street verge, which will also be maintained in accordance with Clause 5.9.2 of TPS No. 3. The lot itself does not have a significant street frontage, being located at a corner of Barberry Way. The site is surrounded on four sides by industrial development of similar scale to the subject lot, and the actual street frontage is 50 metres. The frontage is occupied by two crossovers which are being retained and are separated by an island of grass and some shade trees. When viewed from the street the



shade trees in this location greatly minimise building bulk, and create a comparatively attractive address to the street.

The three existing drainage areas in the north-east, north-west and south-west site comprised of relatively little vegetation. At the City's suggestion the applicant has agreed to include shade trees and other landscaping in these locations, as well as along the boundaries of the lot where possible, in order to minimise building bulk to a greater extent. There was a concern that when viewed from other properties the building would appear somewhat overbearing, and that the proposed Cyclone Equipment along the western side of the building would detract from the amenity of the locality. The establishment of vegetation in the drainage areas and along the lot boundaries would reduce the bulk of the building and bring the proposed landscaping into line with the requirements prescribed in TPS No. 3, particularly regarding the provision of shade trees.

As stated previously the City and the applicant believe that a reduction in car parking in favour of an increase in landscaping is an acceptable proposal for the development. By transforming redundant hardstand parking into landscaped areas complimentary to the structure and for the enjoyment of employees, the City is of the belief that space would be better utilised. The additional landscaping in the vicinity of the building visible from the street would also be complimentary to reducing building bulk. It is therefore recommended that Council use its discretion to support the reduction in car parking for the proposed development.

It should be noted that whilst the City's Environmental Health Department is confident that the proposal will be satisfactory further information has been requested pertaining to the Works Approval application. Further specific conditions subsequent to Environmental Health's receipt of this information are likely to be additional to the recommended conditions. These conditions will address the issues raised by Environmental Health and will not impact upon the planning considerations discussed in this Report. The recommendation to Council is worded to ensure approval is only granted upon receipt of satisfactory information.

### **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.

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

N/A



## **Legal Implications**

Town Planning Scheme No. 3

## **Community Consultation**

The proposed change of use to General Industry (Licensed) is a Discretionary (D) use which does not require community consultation under Clauses 4.3.3 and 10.2 of TPS No 3.

## **Attachment(s)**

1. Location Plan
2. Site Plan
3. Applicant's submission
4. Applicant's letter outlining measures being undertaken to address the City's concerns

## **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 14 February 2008 Council Meeting.

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

Nil.

MAYOR LEE, CLRS GRAHAM AND OLIVER LEFT THE MEETING AT THIS POINT THE TIME BEING 7.46 PM

## **DECLARATION OF INTEREST**

The Chief Executive Officer advised the meeting that he had received declarations of interest as follows:

### **MAYOR STEPHEN LEE**

Declared a Financial Interest pursuant to Section 5.62(1)(ea) of the Local Government Act, 1995, in Item 14.17. The nature of his interest is that as it appears that he was the recipient of a notifiable gift from the developer (Australand) in relation to the 2005 Election at which he was elected, he is therefore deemed to be a closely associated person.

### **CLR RICHARD GRAHAM**

Declared a Conflict of Interest, pursuant to Part 21 of Council's Standing Orders, in Item 14.17. The nature of the interest is that he has given evidence at the Corruption and Crime Commission ("CCC") which, by implication, was critical of Australand Limited's conduct in



relation to the Port Coogee development. He believes his participation in decision-making in relation to the Port Coogee development gives rise to a perception of a conflict of interest until the CCC makes findings in relation to the matters that were the subject of his evidence.

#### **CLR VAL OLIVER**

Declared a Financial Interest pursuant to Section 5.61 of the Local Government Act, 1995, in Item 14.17. The nature of the interest is that she received a notifiable gift, relative to the 2005 Election at which she was elected, from Mayor Lee, who is deemed to be closely associated with a person in relation to this matter.

#### **(MINUTE NO 3667) (OCM 14/2/2008) - APPOINTMENT OF PRESIDING MEMBER**

##### **COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr T Romano that Clr Whitfield be appointed Presiding Member for this item.

**CARRIED 6/0**

#### **14.17 (MINUTE NO 3668) (OCM 14/2/2008) - DETAILED AREA PLAN FOR LOTS 785 AND 786 PORT COOGEE, NORTH COOGEE - OWNER: AUSTRALAND - APPLICANT: TAYLOR BURRELL BARNETT (9022) (T WATSON) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) approve the Detailed Area Plan presented for Lots 785 and 786 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, subject to the matter of building setbacks and height on lot 786 adjacent to the adjoining Public Open Space being reviewed to the satisfaction of the Manager, Statutory Planning;
- (2) through the Chief Executive Officer consider and approve the review of building setbacks and height on Lot 786 adjacent to the adjoining Public Open Space; and
- (3) advise the applicant accordingly.



**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr H Attrill that the recommendation be adopted.

**CARRIED 6/0**

**Background**

The subject land is within the Port Coogee development area. It consists of two (2) lots owned by Australand, situated in the south western part of the project area. Under the Structure Plan, the land is identified for high density residential development (R80), within one of three *Water Based Residential* precincts as depicted on the *Land Use Precincts* plan. It is noted that Public Open Space divides the two lots in an east-west orientation, whilst the setting involves the following:

- High density small lot development adjoining Lot 785 to the south.
- Small lot, lower density residential development and Public Open Space to the east (of both lots).
- Marina Village development adjoining Lot 786 to the north.

**Submission**

The attached Detailed Area Plan (DAP) addresses amongst matters:

- The interface of future development on the land to the lot frontages and Public Open Space.
- Development potential, including building height, plot ratio etc.
- Building design considerations, including elevation requirements adjacent to the Public Open Space, and the location of service areas and related hardware.
- Vehicular access details.

Where the 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. For instance, the parking standards for residential development on the subject land are those detailed in the R-Codes, to be considered in conjunction with the access requirements of the DAP.

**Report**

The DAP proposed for Lots 785 and 786 provides a site-specific layer of planning information to be considered in the design and development of the land in question. The information is to be considered within the framework of the Structure Plan adopted by Council for Port Coogee, as well as the City's Planning Scheme and the R-Codes. The DAP addresses amongst matters: building





setbacks, height, private open space and vehicular access requirements.

Given the prominence of the two lots, the DAP also addresses the need for the appropriate location/screening of service areas and related hardware. The lots in question are on land lower than the *Dry Land Residential*, which rises up to realign Cockburn Road. They are also situated on the western side of the main north-south road that extends through the project area. Bearing these points in mind, specific attention needs to be paid to ensuring these elements of development are appropriately considered during design.

In addition, the City recommended a number of amendments to the planning consultant responsible for the DAP. These changes include the need for the DAP to refer to the following:

- The R-Coding of the land.
- The building height as prescribed by the Structure Plan – three (3) storeys and 13.6m for Lot 785 and five (5) storeys and 21.0m for Lot 786.
- The requirement for a direct connection between ground floor dwellings and the public domain, be it road or POS.

The City also recommended the consultant undertake a review of the matter of building setbacks and height on Lot 786 adjacent to the adjoining Public Open Space. This, however, has not taken place.

### Conclusion

The amended DAP for Lots 785 and 786 reflect the content of the Structure Plan for the site and location. It is, therefore, recommended that the DAP be adopted by Council subject to the matter of building setbacks and height on Lot 786 being further reviewed. In this regard, it is recommended that Council to resolve the matter.

The approval of a DAP is in accordance with the provisions of 6.2.15 of the Scheme. The provisions identify planning considerations to be included in DAP's and the process for adopting such. Where a DAP may affect landowners other than the owner of the land subject of the plan, the City may undertake consultation.

As Australand owns the majority of surrounding land, this has not occurred. Additionally, whilst adjacent Lots 743 and 744 were sold as part of Stage 1 and are now in private ownership, the DAP sits within the requirements of the Structure Plan (and future development should occur as anticipated, precluding the need for further consultation). Clause 6.2.15.8 provides scope for a DAP to be amended.



## **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.

Council Policies that apply are:

APD31          Detailed Area Plans

## **Budget/Financial Implications**

N/A

## **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005

## **Community Consultation**

The DAP has not been the subject of consultation. The DAP sits within the framework of the Port Coogee Structure Plan which has been through a comprehensive public consultation program, including workshops.

## **Attachment(s)**

1. Location Plan and Structure Plan
2. Detailed Area Plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 February 2008 Council Meeting.

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

Nil.



MAYOR LEE, CLRS GRAHAM AND OLIVER RETURNED TO THE MEETING THE TIME BEING 7.50 PM.

THE PRESIDING MEMBER ADVISED MAYOR LEE, CLRS GRAHAM AND OLIVER OF THE DECISION OF COUNCIL WHILE THEY WERE ABSENT FROM THE MEETING.

MAYOR LEE RESUMED THE ROLE OF PRESIDING MEMBER

**14.18 (MINUTE NO 3669) (OCM 14/2/2008) - PROPOSED SCHEME AMENDMENT NO. 67 - DEVELOPMENT CONTRIBUTION AREA NO. 11 MURIEL COURT - LOCATION: MURIEL COURT AREA COCKBURN CENTRAL - APPLICANT: CITY OF COCKBURN - OWNER: VARIOUS (93067) (A BLOOD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) resolve to amend Town Planning Scheme No. 3 as follows;

PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND CITY OF COCKBURN  
TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 67

Resolved that Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above Town Planning Scheme by;

1. Amending Clause 6.3.4(b) (iv) by adding the following words to the end of the existing clause “unless otherwise specified in the Development Contribution Plan contained in Schedule 12.”
2. Amend Schedule 12 – Development Contribution Plans to include provisions for DCA No 11 – Muriel Court.
3. Amend the Scheme Map to include the boundaries of Development Contribution Area No 11 – Muriel Court.
4. Amend Schedule 11 Development Area 19 to include a requirement for all development within DA 19 be in accordance with Design Guidelines adopted by the local government.

- (2) adopt the following amendment;



PLANNING AND DEVELOPMENT ACT 2005  
 CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3  
 AMENDMENT NO. 67

The City of Cockburn under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above Town Planning Scheme by;

1. Amend Clause 6.3.4(b) (iv) of the Scheme Text by adding the following words to the end of the existing clause "unless otherwise specified in the Development Contribution Plan contained in Schedule 12."
2. Amend Schedule 12 – Development Contribution Plan by including the following;

Ref No:	DCA 11
Area:	Muriel Court
Provisions:	<p>All landowners within DCA 11 shall make a contribution to land and infrastructure works required as part of the development of the Muriel Court Development Contribution Area.</p> <p>With the exception of existing lots 3 and 21 Verna Court and lots 52 and 150 Semple Court, the contribution is to be calculated on the potential number of dwellings that can be constructed on each lot or lots and calculated in accordance with the following:</p> <p>R20 lots – 450m<sup>2</sup>                  R40 lots – 220m<sup>2</sup>                  R160 lots – Calculated by dividing the lot area (m<sup>2</sup>) by 62.5 to give the number of dwellings.</p> <p>No contribution is required in respect to land and lots required for public open space, drainage, the widening and extension of Muriel Court and Kentucky Court and the widening and realignment of Semple Court.</p> <p>Contributions shall be made towards the following items by all landowners within DCA 11.</p> <p>Pro-rata contribution to the upgrading of North Lake Road between Kentucky Court and Semple Court including upgrading the existing carriageway, construction of the existing carriageway, drainage, lighting, landscaping and service relocation where necessary.</p>



	<p>The cost of land and works for the widening and realignment of Semple Court between Verna Court and North Lake Road as shown on the Muriel Court Structure Plan. The cost of works is the cost over and above that of providing a normal subdivision road with drainage, lighting, footpaths and parking embayments which will be a cost to the owners of the adjoining land.</p> <p>The cost of land and works for the realignment of Semple Court shown on the Muriel Court Structure Plan between Berrigan Drive and Verna Court. Works are to include the cost of the carriageways, median landscaping, drainage, lighting and paths.</p> <p>Traffic management devices along realigned Semple Court and traffic lights at the intersection of Semple Court with Berrigan Drive and North Lake Road.</p> <p>Modifications to existing Semple Court including closures and pavement modifications shown on the Muriel Court Structure Plan.</p> <p>Cost of land and works for the realignment of Elderberry Drive between Berrigan Drive and Jindabyne Heights.</p> <p>The cost of land and works for the widening of Muriel Court and Kentucky Court between realigned Semple Court and North Lake Road as shown on the Muriel Court Structure Plan. The cost of works is the cost over and above that of providing a normal subdivision road with drainage, lighting, footpaths and parking embayments which will be a cost to the owners of the adjoining land.</p> <p>Traffic management devices along Muriel court and traffic lights at the intersection of Kentucky Court and North Lake Road.</p> <p>Provision of land for public open space area shown on the Muriel Court Structure Plan and the cost of landscaping and bushland/wetland restoration.</p> <p>Land and works for internal and off site groundwater control and drainage infrastructure including detention basins, gross pollutant traps, nutrient stripping and landscaping.</p>
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	<p>Preliminary professional services including drainage, services, geotechnical, site contamination, traffic and planning.</p> <p>Costs to administer cost sharing arrangements of the DCA including detailed engineering design of drainage and roads the subject of the DCA provisions, cost estimates and schedules, valuations, annual reviews of land and works, audits and administrative costs.</p> <p>Cost including fees and interest of any loans raised by the local government to undertake any of the works associated with DCA 11.</p> <p>The following lots shall make a proportional contribution to the road and drainage works listed above unless rezoned to residential in which case all the above requirements will apply.</p> <p>Lot 52 Semple Court 1.25% of the total cost          Lot 3 Verna Court 7.6% of the total cost          Lot 21 Verna Court 1.5% of the total cost</p>
<p>Participants and Contributions</p>	<p>In accordance with the Cost Contribution Schedule adopted by the local government for DCA 11</p>
	<ol style="list-style-type: none"> <li>3. Amend the Scheme Map to include the Muriel Court Development Contribution Area as outlined with the purple border and labelled DCA 11 on the Scheme Amendment Map.</li> <li>4. Amend provisions of Schedule 11 – DA 19 Muriel Court to include a new provision as follows;</li> <li>5. All development within the Muriel Court Development Area shall be in accordance with Design Guidelines adopted by the local government.</li> </ol> <ol style="list-style-type: none"> <li>(3) sign the amending documents and advise the WAPC of Councils' decision;</li> <li>(4) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act;</li> <li>(5) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian</li> </ol>



Planning Commission;

- (6) notwithstanding (5) above, the Director Planning and Development may refer the Scheme Amendment to the Council for its' consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not with the Amendment; and
- (7) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48A of the Environmental Protection Act, the Amendment be referred to the Council for its' determination as to whether to proceed or not proceed.

#### **COUNCIL DECISION**

MOVED Cllr I Whitfield SECONDED Cllr S Limbert that Council:

- (1) resolve to amend Town Planning Scheme No. 3 as follows;

PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND CITY OF COCKBURN  
TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 67

Resolved that Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above Town Planning Scheme by;

3. Amending Clause 6.3.4(b) (iv) by adding the following words to the end of the existing clause "unless otherwise specified in the Development Contribution Plan contained in Schedule 12."
4. Amend Schedule 12 – Development Contribution Plans to include provisions for DCA No 11 – Muriel Court.
3. Amend the Scheme Map to include the boundaries of Development Contribution Area No 11 – Muriel Court.
4. Amend Schedule 11 Development Area 19 to include a requirement for all development within DA 19 be in accordance with Design Guidelines adopted by the local government.

(2) adopt the following amendment;

PLANNING AND DEVELOPMENT ACT 2005  
 CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3  
 AMENDMENT NO. 67

The City of Cockburn under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above Town Planning Scheme by;

1. Amend Clause 6.3.4(b) (iv) of the Scheme Text by adding the following words to the end of the existing clause “unless otherwise specified in the Development Contribution Plan contained in Schedule 12.”
2. Amend Schedule 12 – Development Contribution Plan by including the following;

Ref No:	DCA 11
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Area:	Muriel Court
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Provisions:	<p>All landowners within DCA 11 shall make a contribution to land and infrastructure works required as part of the development of the Muriel Court Development Contribution Area.</p> <p>With the exception of existing lots 3 and 21 Verna Court and lots 52 and 150 Semple Court, the contribution is to be calculated on the potential number of dwellings that can be constructed on each lot or lots and calculated in accordance with the following:</p> <p>R20 lots – 450m2              R40 lots – 220m2              R160 lots – Calculated by dividing the lot area (m2) by 62.5 to give the number of dwellings.</p> <p>No contribution is required in respect to land and lots required for public open space, drainage, the widening and extension of Muriel Court and Kentucky Court and the widening and realignment of Semple Court.</p> <p>Contributions shall be made towards the following items by all landowners within DCA 11.</p> <p>Pro-rata contribution to the upgrading of North Lake Road between Kentucky Court and Semple Court including upgrading the existing carriageway, construction of the existing carriageway, drainage,</p>
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	<p>lighting, landscaping and service relocation where necessary.</p> <p>The cost of land and works for the widening and realignment of Semple Court between Verna Court and North Lake Road as shown on the Muriel Court Structure Plan. The cost of works is the cost over and above that of providing a normal subdivision road with drainage, lighting, footpaths and parking embayments which will be a cost to the owners of the adjoining land.</p> <p>The cost of land and works for the realignment of Semple Court shown on the Muriel Court Structure Plan between Berrigan Drive and Verna Court. Works are to include the cost of the carriageways, median landscaping, drainage, lighting and paths.</p> <p>Traffic management devices along realigned Semple Court and traffic lights at the intersection of Semple Court with Berrigan Drive and North Lake Road.</p> <p>Modifications to existing Semple Court including closures and pavement modifications shown on the Muriel Court Structure Plan.</p> <p>Cost of land and works for the realignment of Elderberry Drive between Berrigan Drive and Jindabyne Heights.</p> <p>The cost of land and works for the widening of Muriel Court and Kentucky Court between realigned Semple Court and North Lake Road as shown on the Muriel Court Structure Plan. The cost of works is the cost over and above that of providing a normal subdivision road with drainage, lighting, footpaths and parking embayments which will be a cost to the owners of the adjoining land.</p> <p>Traffic management devices along Muriel court and traffic lights at the intersection of Kentucky Court and North Lake Road.</p> <p>Provision of land for public open space area shown on the Muriel Court Structure Plan and the cost of landscaping and bushland/wetland restoration.</p> <p>Land and works for internal and off site groundwater control and drainage infrastructure including detention basins, gross pollutant traps, nutrient stripping and</p>
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	<p>landscaping.</p> <p>Preliminary professional services including drainage, services, geotechnical, site contamination, traffic and planning.</p> <p>Further detailed studies and design including design guidelines and engineering design of drainage and major roads.</p> <p>Costs to administer cost sharing arrangements of the DCA including detailed engineering design of drainage and roads the subject of the DCA provisions, cost estimates and schedules, valuations, annual reviews of land and works, audits and administrative costs.</p> <p>Cost including fees and interest of any loans raised by the local government to undertake any of the works associated with DCA 11.</p> <p>The following lots shall make a contribution to the cost to administer cost sharing arrangements of the DCA and a proportional contribution to the road and drainage works listed above unless rezoned to residential in which case all the above requirements will apply.</p> <p>Lot 52 Semple Court 1.25% of the total cost          Lot 3 Verna Court 7.6% of the total cost          Lot 21 Verna Court 1.5% of the total cost</p>
<p>Participants and Contributions</p>	<p>In accordance with the Cost Contribution Schedule adopted by the local government for DCA 11</p>
	<ol style="list-style-type: none"> <li>3. Amend the Scheme Map to include the Muriel Court Development Contribution Area as outlined with the purple border and labelled DCA 11 on the Scheme Amendment Map.</li> <li>4. Amend provisions of Schedule 11 – DA 19 Muriel Court to include a new provision as follows;</li> <li>5. All development within the Muriel Court Development Area shall be in accordance with Design Guidelines adopted by the local government.</li> </ol> <p>(3) sign the amending documents and advise the WAPC of Councils' decision;</p> <p>(4) forward a copy of the signed documents to the Environmental</p>



Protection Authority in accordance with Section 81 of the Planning and Development Act;

- (5) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
- (6) notwithstanding (5) above, the Director Planning and Development may refer the Scheme Amendment to the Council for its' consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not with the Amendment; and
- (7) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48A of the Environmental Protection Act, the Amendment be referred to the Council for its' determination as to whether to proceed or not proceed.

**CARRIED 9/0**

### **Reason for Decision**

There is a need to prepare design guidelines for the area as specified in Clause (2) 5 of the recommendation and detailed design of the drainage system for Semple Court to facilitate the development of DA 19 Muriel Court. These costs are to be pre-funded by the City but ultimately should be the responsibility of the landowners who will benefit from the work.

In addition, it should be made clear that the owners of the specified land at the bottom of the DCA table are also responsible to contribute to the administration of the DCA arrangements in the same way as the other owners in the DCA area.

### **Background**

Council at its meeting held on 13 December 2007 resolved to advertise the draft Structure Plan for DA 19- Muriel Court. The Agenda report notes the need for all owners to make a contribution to common costs. This is to be formalised through a development contribution plan for the Muriel Court area.



## Submission

N/A

## Report

There are some 89 separate lots within the DA 19 area which are relatively small compared to those being subdivided elsewhere within the City and it is not possible for owners to satisfy all the planning requirements etc on their own land. Accordingly it will be necessary for the City to prepare and administer developer contributions for the area to facilitate the development.

Given that the development area includes development at R20, R40 and R160 it is not equitable for the contributions to be on a land area basis as specified in clause 6.3.4(b) ( iv) of TPS 3. Accordingly part 1 of the amendment provides the ability for the Development Contribution Plan to specify an alternative basis for contribution. In the case of DCA 11 Muriel Court it is proposed to specify that contributions for the residential area will be on a per dwelling basis which reflects both development potential and also relates to the generated need. In respect to the mixed business area and land reserved for railway purposes at the intersection of Berrigan Drive and Semple Court the DCA requires a proportional land area contribution to the road and drainage infrastructure and provides that this will be changed to a full contribution on a dwelling basis if the area is subsequently rezoned to residential.

The amendment sets out in detail the development contribution items. In summary these are as follows;

- Pro-rata contribution to North Lake Road between Kentucky Court and Semple Court.
- Widening/upgrading of Semple Court including traffic management devices, traffic lights, parking or access places or the over and over cost of a realigned Semple Court including the cost of land acquisition.
- Realignment of Elderberry Drive north of Berrigan Drive.
- Upgrading and widening of Muriel Court and Kentucky Court where this exceeds the normal subdivision requirement.
- Provision and enhancement/upgrade of POS.
- Internal and external drainage areas and works including gross pollutant traps and nutrient stripping and landscaping.
- Preliminary professional studies including drainage, geotechnical, engineering, traffic and planning.



- The City's costs of administering the Development Contribution Scheme and the cost of any loans required to purchase land or undertake DCA works that council considers necessary to facilitate development of the area.

A preliminary Cost Contribution Schedule is being prepared and is expected to be available for distribution to owners around the same time as the Council meeting.

The scheme amendment also includes a clause that will be added to the Muriel Court Development Area provisions in Schedule 11 which requires that all development will be required to be in accordance with design guidelines adopted by the City. Under normal circumstances design guidelines are prepared and administered by individual developers to ensure a high quality of development is achieved. In the Muriel Court area there is a need for development guidelines to guide development and in particular the R160 and R40 areas. However given the multiplicity of land owners this will be an administrative nightmare on an individual owner basis. Accordingly it is recommended that the City prepare and administer design guidelines for the area. These will be prepared in the coming months and advertised for landowner comment.

It is recommended that Council adopt Amendment No. 67 to progress the planning and implementation of the Muriel Court area.

### **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.

#### **Infrastructure Development**

- To construct and maintain parks and bushland reserves that is convenient and safe for public use, and do not compromise environmental management.

#### **Transport Optimisation**

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

### **Budget/Financial Implications**

Cost of Administering the Development Contribution Plan will be funded as part of the Plan.



Some design and studies are likely to need to be prefunded by the City. These will be repaid as funds are available.

The Development Contribution Plan provides the ability for Council to loan funds to the DCA to acquire land or undertake works specified in DCA 11 and for the associated costs and interest to be paid to the City.

**Legal Implications**

N/A

**Community Consultation**

The Scheme Amendment will be advertised for 42 days with notices in the local paper and letters being sent to relevant government agencies and affected land owners.

**Attachment(s)**

Scheme Amendment Maps - Existing and Proposed

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

N/A

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

Nil.

**14.19 (MINUTE NO 3670) (OCM 14/2/2008) - TOBACCO ACTION PLAN AND PHYSICAL ACTIVITY PROGRAM (6003) (N JONES) (ATTACH)**

**RECOMMENDATION**  
That Council:

- (1) endorses the Tobacco Action Plan 2008 and Physical Activity Program 2008/09 and
- (2) approves the implementation of the Tobacco Action Plan 2008 and Physical Activity Program 2008/09.

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

**CARRIED 9/0**



## Background

The WA Department of Health through the South Metropolitan Public Health Unit has recognized the need to create and develop partnerships with Local Governments to ensure that greater attention is given to health promotion. There is a need for the City's Environmental Health Services to focus some resources on the growing lifestyle disease epidemics including obesity, cancer and heart disease. Funding has been provided by the State Government to initiate programs targeting diseases caused by tobacco smoking and sedentary lifestyles.

## Submission

N/A

## Report

A comprehensive Healthy Lifestyles Strategy would focus on the following key areas as recognized by Healthway (see extract from Annual report – Attachment 1) and the WA Department of Health:-

- Tobacco
- Physical Activity
- Nutrition
- Mental health (including drugs and alcohol)
- Indigenous health

It is widely recognized that local government is the best tier of government to deliver health promotion programs to the community most efficiently and effectively. State Government funding has been obtained to enable the City to commence Health Promotion activities in the areas of Tobacco and Physical Activity.

### Tobacco Action Plan

The WA Department of Health has provided funds (\$20,000 plus GST) and support for the City to develop and implement a Tobacco Action Plan (TAP) (see attachment 2) aiming to reduce the prevalence of smokers in the city. Smoking remains one of the biggest causes of death in Australia. Using these additional funds a contract Health Promotion Officer will be employed to implement the following key elements of the six month TAP to commence early in 2008:-

1. A Steering Committee of key stakeholders including Cancer Council, South Metropolitan Public Health Unit, Heart Foundation and Fremantle Division of General Practice's will be convened and coordinated by a Health Promotion Officer.



2. An increased public awareness of the harm associated with tobacco use
3. Increased promotion of the Quit message.
4. Increased accessibility and appropriateness of information, education and resources for all target groups including youth, indigenous people and Culturally and Linguistically Diverse (CALD) communities, regarding the health effects of tobacco use and cessation of tobacco use.
5. Increased range and number of community based programs that aim to prevent the uptake of smoking in youth.
6. Reduce availability and supply of tobacco to minors (Under 18's).
7. A 6 month Cockburn Tobacco Action Plan with proposed key performance indicators is to be developed and provided to Council for endorsement.
8. Provide recommendations for future actions for 2008/09 (July-June).

#### Physical Activity Program

The City has been successful in obtaining grant funds of \$30,000 plus GST from the Premiers Physical Activity Taskforce to implement a Physical Activity (PA) program (see Project Timeline - Attachment 3) in 2008/9. Using existing funds a 0.5 FTE contract Health Promotion Officer (HPO) will be employed who will work closely with a 0.4 FTE HPO from the South Metropolitan Public Health Unit. The project will commence in Jan 2008 and will be completed in 2009, the key elements of the PA program are:-

1. Employ Health Promotion Officer and SMPHU HPO
2. Establish steering committee
3. Logo, slogan, launch
4. Develop interactive web site showing local PA opportunities
5. Display stands in shopping centres etc
6. Point of decision signage
7. Use existing newsletters etc for marketing PA promotion messages
8. New PA events
9. Further support to Walking Groups
10. Survey 2 suburbs to see demand for PA sessions in parks/library
11. 8 week trial of PA sessions (circuit training) in 1 local park

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

##### **Infrastructure Development**

- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.





**Lifestyle and Aspiration Achievement**

- To facilitate and provide an optimum range of community services and events.

**Governance Excellence**

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.
- To maintain a professional, well-trained and healthy workforce that is responsive to the community's needs.

**Budget/Financial Implications**

Funding of \$20,000+ GST is provided by the South Metropolitan Public Health Unit to implement the Tobacco Action Plan. Funding of \$30,000+ GST is provided by WALGA via the Premier's Physical Activity Taskforce to implement the Physical Activity Program.

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

1. Extract from Healthway Annual Report
2. Tobacco Action Plan
3. Physical Activity Program - Project Timeline

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

N/A

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

Nil.



**14.20 (MINUTE NO 3671) (OCM 14/2/2008) - COUNCIL OWNED/MANAGED CONTAMINATED SITES STRATEGY - OWNER/APPLICANT: CITY OF COCKBURN (6126) (C WATTS) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopts the Contaminated Sites Strategy as outlined in the Agenda attachments;
- (2) conducts the initial site examination as outlined in the Contaminated Sites Strategy; and
- (3) receives a report on the progress of the Contaminated Sites Strategy to be tabled at a future meeting of Council.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

The **Contaminated Sites Act 2003** (*the Act*) took effect on 1 December 2006. The primary function of *the Act* is to protect human health and the environment; it requires the identification of contaminated sites for recording in a public database facilitates the management and remediation of contaminated sites and sets out notification procedures to ensure that no one acquires a contaminated site without being aware of any contamination.

The Purposes of this strategy are to identify which properties owned or managed by the City of Cockburn may fall within the context of a contaminated site as per the *Contaminated Sites Act 2003*, to determine whether there is a need to formally notify the Department of Environment & Conservation and to propose an action plan outlining works to determine whether reporting of particular properties is required

**Submission**

N/A



## Report

The Contaminated Sites Act 2003 took effect in December 2006 and requires all “known” contaminated sites to be reported to the DEC for inclusion on the Contaminated Sites Database ([www.environment.wa.gov.au](http://www.environment.wa.gov.au)). Once reported, the DEC makes a determination as to the extent of contamination, the risk that it posed the community and environment and the degree of remediation required. The City's Health Service is required to report all sites to DEC, if the City “owns” or occupies land where:

- The City knows the land is contaminated, or
- The City knows it has caused contamination, or
- Has reasonable grounds to suspect it has caused or contributed to contamination

A site is contaminated only where the contamination poses a risk to the environment or human health. Just because chemicals have been spilt or leaked doesn't mean that the land is contaminated.

Officers from the City's Health Service have conducted an initial file review of Council “Owned” properties and assessed approximately 510 properties of various use and history within the District which are either owned or managed by the City of Cockburn to ascertain whether any current or previous activities conducted on the property may have contributed to contamination of the site.

Of the initial 510 Council owned properties, 27 properties requiring further action have been identified. A total of 9 properties have been referred to DEC. Each of the remaining properties has been prioritised based on development risk/possible disposal and an Environmental/Health Priority. Once prioritised, it is recommended that the properties will be assessed over a 2 year period because the assessment process is complex, it requires the appropriate time and resources, and there exists a significant shortage of accredited Contaminated Sites auditors. Cost estimates have been indicated where estimates can be reasonably made. Many cost estimates have not been entered at this stage; the magnitude of these will become clearer as the program unfolds.

The future land use priority includes not only the purpose and potential contact people have with the land, but also includes whether the land may be sold to a third party, necessitating remediation of the site by the City of Cockburn. Sites which were marked for development (eg future commercial or residential use) or where they were subject to future sale (i.e. disposal) were afforded a higher priority as any contaminated site classification would impact on the sale or development of the property. Those sites which are not subject to development pressures (i.e. reserved bushland sites) were afforded a lower priority. Future land uses are ranked from high (score of 1) through to low (score of 5).



Potential health and environmental impacts are prioritised by the type of contamination (if known) or perceived contamination if not known, and the impact that the contamination would have were it to come into contact with the public primarily and to a lesser extent its effect on the environment. The matrix errs on the side of caution, using worst case scenarios, especially where contamination is perceived. For example, premises which will adversely impact directly onto the environment (and in turn human health) such as increased nutrients discharging into Bibra Lake or directly onto human health (via use or contact) such as a playing field is afforded a higher risk. Where a premises poses little to no risk (such as being in an inaccessible area and not possibly discharging into the environment) the lower risk score was applied. The same scale is applied as with future land use priorities, with the higher risk premises receiving a score of 1, and the lowest health/environmental risk being ranked 5.

The City's Health Service will be calling tenders to conduct the site assessments, with the intention of having all of the sites sampled and reports completed by 30 June 2009. There are 15 sites that require further investigation and a total of 9 properties will be subject to site assessment in 2008 to determine whether there is a need to report these to the DEC.

The sites marked for the initial review include:-

- Bibra Lake (2 sites) – Possible detrimental environmental impact from landfilling
- Wellard Street Depot (3 sites) – Fuel contamination, workshop activities
- Reserve 46787 Malabar Way (reserve includes BMX track)– Impact from landfilling
- Reserve 42489 Bennett Ave (drainage) – impacts from adjacent tannery
- 886 Warton Road (pistol club & water catchment) – Lead contamination and unexploded ordinance
- Lot 14 Hammond Road (recreation, subject to partial sale) – impact from landfilling

Where a Preliminary Site Investigation is warranted, the results of these samples will form the basis of the report to the DEC and will also be included in any Detailed Site Investigation.

Once reported, any further actions undertaken will be determined by the classification that the site receives from the DEC. These will range from taking no further action to conducting comprehensive investigations with a view to remediating the site. As such, no costing has been developed at this stage for further works.



## Strategic Plan/Policy Implications

### Governance Excellence

- To provide effective monitoring and regulatory services that administers relevant legislation and local laws in a fair and impartial way.

### 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

Through the City's budget process approximately \$100,000 has already been allocated for the investigation of contaminated sites. Depending upon the outcome of the reports for the sites, further works may be required. The remaining lower ranked sites on the City's register will require investigation over the following year. As of January 2008, there is a total of \$722,000 in a reserve account allocated to the remediation of contaminated sites. It is recommended that a further \$100,000 be allocated to contaminated sites investigation in 2008/09 and application for this funding will be included in the 2008/09 budget request.

Additional funding will be required in subsequent financial years to complete the remainder of the PSIs. However, at this stage funds cannot be determined. It is also likely that funding will be required from the Reserve Fund but at this stage this will be determined by the results of the PSI investigations.

## Legal Implications

These works are required to ensure compliance with the reporting provisions of the **Contaminated Sites Act 2003**.

## Community Consultation

N/A

## Attachment(s)

1. City of Cockburn Contaminated Sites Strategy
2. City Owned Potentially Contaminated Sites Database

## 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 (MINUTE NO 3672) (OCM 14/2/2008) - LIST OF CREDITORS PAID - NOVEMBER & DECEMBER 2007 (5605) (K LAPHAM) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for November and December 2007, as attached to the Agenda.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

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

**Submission**

N/A

**Report**

The list of Accounts for November and December 2007 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 - November and December 2007.

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

N/A

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

Nil.

**15.2 (MINUTE NO 3673) (OCM 14/2/2008) - STATEMENT OF FINANCIAL ACTIVITY - NOVEMBER AND DECEMBER 2007 (5505) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated reports for November and December 2007 respectively, as attached to the Agenda.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

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



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

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

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

### **Submission**

N/A

### **Report**

Attached to the Agenda is the Statement of Financial Activity for November and December 2007. As there was no Council meeting held in January, Council is required to receive two reports at this meeting.

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. Variances identified to the end of December, have been addressed in the mid-year Budget Review (see separate agenda item this meeting).

#### **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 - November and December 2007.

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

N/A

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

Nil.



**15.3 (MINUTE NO 3674) (OCM 14/2/2008) - BUSINESS PLAN 2007/08 AND BUDGET REVIEW PERIOD ENDING 31 DECEMBER 2007 (5402) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the Business Plan Review;
- (2) amend the Municipal Budget for 2007/08 as set out in the attached report, summarised as \$1,902,565 - Income and \$1,902,565 - Expenditure;
- (3) authorise the advertising for local public notice for one month for the change in use of part of the money, totalling \$2.2m, contained in the Waste & Recycling Reserve so that the funds can be used in the land acquisition program for the Spearwood Avenue (Sudlow Road to Barrington Street) Project; and
- (4) authorise the advertising for local public notice for one month for the change in purpose and name of the Leave Entitlement Reserve to the Staff Payments and Entitlement Reserve. The purpose of the reserve will be Payment of staff entitlements including leave, separation, bonus, awards and other payments made to staff either through contractual or statutory entitlement.

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

**COUNCIL DECISION**

MOVED Cllr T Romano SECONDED Cllr V Oliver that Council:

- (1) receive the Business Plan Review;
- (2) amend the Municipal Budget for 2007/08 as set out in the attached report, summarised as \$1,902,565 - Income and \$1,902,565 - Expenditure, subject to the inclusion of the following:
  1. Alteration and upgrade to the floodlights at Tempest Park, Coolbellup. New Capital Cost \$45,000.
  2. Alteration to the Entry Statement – Cockburn and Rockingham Roads, Hamilton Hill with inclusion of a limestone backing to the existing entry statement. New Capital Cost \$10,000.
  3. Additional seating for Bavich Park - New Capital Cost \$1,500.



4. Women in Local Government Promotion and Function - Operating cost \$5,000.
5. 24 Seater Community Bus - New Capital cost \$125,000.
6. Airconditioning for Elected Members Offices - New Capital Cost \$5,000.
7. Pioneer Lunch. Provision of general gifts - Operating cost \$2,000.
8. Increase the budget in Law and Order and Public Safety by increasing the Ranger Promotional and Educational Budget from \$2,000 to \$4,000.

All the above projects will be funded from the cash at bank.

- (3) authorise the advertising for local public notice for one month for the change in use of part of the money, totalling \$2.2m, contained in the Waste & Recycling Reserve so that the funds can be used in the land acquisition program for the Spearwood Avenue (Sudlow Road to Barrington Street) Project; and
- (4) authorise the advertising for local public notice for one month for the change in purpose and name of the Leave Entitlement Reserve to the Staff Payments and Entitlement Reserve. The purpose of the reserve will be Payment of staff entitlements including leave, separation, bonus, awards and other payments made to staff either through contractual or statutory entitlement.

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

### **Reason for Decision**

The provision of the additional funds as part of the mid-year Budget Review is in response to requests from the community or their Elected Members for the provision of additional services and infrastructure.

### **Background**

Section 33A(1) of the Local Government (Financial Management) Regulations 1996 requires Council to review its annual budget between 1 January and 31 March in each year.

Council adopted its first annual Business Plan at the July 2006 Ordinary Council Meeting. In accordance with Policy SC34 *Annual*



*Budget Preparation*, a formal report on the progress of the Plan is to be presented at the February 2008 Ordinary Council Meeting.

### **Submission**

N/A

### **Report**

#### Business Plan 2007/08

The attached Business Plan Review outlines the progress made in achieving Council's business activity plan and program budgets for FY 07/08. The review identifies that the operational income and expenditure forecasts are running close to expectations. There has also been considerable progress in achieving the program objectives of each of the City's Business Units.

The capital works program is also progressing, with year to date expenditure being very close to the target. This outcome is a significant improvement to previous years. All major projects have commenced, though some have had their scope of works amended as they have progressed.

#### Budget Review

A report on the review of the Municipal Budget for the period 1 July 2007 to 31 December 2007 is attached to the Agenda. The report sets out details of all proposed changes and a brief explanation as to why the changes are required. All forecasts are post allocation of ABC cost charges or income recoveries.

#### Borrowing from Waste & Recycling Reserve

As part of the half year Budget Review, there is a need to borrow from the Waste and Recycling Reserve an amount of \$2.2m to fund the acquisition of land for the Spearwood Avenue Extension (Sudlow to Barrington). The funds are being borrowed because the usual source of funds, the Roads and Drainage Infrastructure Reserve are fully committed to other major road programs. The funds will be repaid to the Waste Reserve on completion of the project by a grant fund currently at \$5.0m from the Regional Roads Group of Main Roads WA of the \$7.5m total project cost and a further allocation of Municipal Funds.

To borrow funds from a Reserve, Section 6.11 of the Local Government Act 1995 states:

*before a local government —*

*(a) changes\* the purpose of a reserve account; or*



(b) *uses\* the money in a reserve account for another purpose, it must give one month's local public notice of the proposed change of purpose or proposed use."*

*\* Requires absolute majority of Council*

The Act requires one month's local public notice be given by advertising in the local newspaper.

The intention is to charge the project an interest expense based on what the funds would have earned or the cost if the funds had to be borrowed, whichever is the higher.

### Change of Purpose of Existing Reserve

The Council currently has a Leave Liability Reserve which is used to ensure the leave entitlements of Staff are cash backed. This poses an accounting dilemma as the accounting standards state that the net assets of Council's balance sheet already contains the accrual of all Staff entitlements with the Reserve double counting the Council's potential liability. By broadening the purpose of the reserve, the City will no longer be double counting the funds contained in the Reserve. The purpose of the reserve is to be changed to:

Payment of staff entitlements including leave, separation, bonus, awards and other payments made to Staff either through contractual or statutory entitlement. The name of the reserve is to change to Staff Entitlements and Payments Reserve.

The Local Government Act 1995 requires the City advertise the change of purpose as noted above.

The proposed changes can be summarised as follows:

Service Unit	Income \$	Expenditure \$	Total \$
Elected Members	0	5,000	5,000
Executive Services	0	69,000	69,000
Other Governance	0	-18,000	-18,000
Other General Purpose Income	-287,935	0	-287,935
Roads Construction & Maintenance Services	50,420	-88,695	-38,275
Road Design Services	0	0	0
Parks Services	-78,100	471,030	392,930
Facilities Maintenance Services	1,352,717	-695,491	657,226
Plant Maintenance Services	12,907	7,278	20,185
Waste Collection	-50,000	-20,000	-70,000
Waste Disposal Services	-1,110,000	280,000	-830,000
Works Overheads	0	0	0
Transfers to Reserves	0	0	0
I.T. Services	-100,000	288,000	188,000
Records Services	0	-12,000	-12,000

<b>Service Unit</b>	<b>Income \$</b>	<b>Expenditure \$</b>	<b>Total \$</b>
Management Accounting Services	-200,000	10,312	-189,688
Rates Services	-20,000	0	-20,000
Human Resources	0	113,150	113,150
Building Services	100,000	198,316	298,316
Health Services	-20,000	9,688	-10,312
Environmental Services	-27,000	47,000	20,000
Strategic Planning Services	-250,000	-35,000	-285,000
Land Administration Services	-815,498	821,498	6,000
Statutory Planning Services	17,500	-14,989	2,511
Developer Contributions Area	-357,085	357,085	0
Customer Services	0	84,000	84,000
Recreational Services	0	12,000	12,000
Law Order & Public Safety	0	12,000	12,000
Human Services	0	47,351	47,351
Community Development	0	-18,045	-18,045
Cash at Bank Impact	-178,414		-148,414
	<b>-1,930,488</b>	<b>1,930,488</b>	<b>0</b>

### **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**

A number of amendments to the Budget are recommended.

#### **Legal Implications**

Section 33A(1) of the Local Government (Financial Management) Regulations 1996 requires Council to review its annual budget between 1 January and 31 March in each year.

#### **Community Consultation**

N/A

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

1. Business Plan Review
2. Schedule of Budget amendments

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

N/A



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

Nil.

MAYOR LEE, CLRS GRAHAM AND OLIVER LEFT THE MEETING AT THIS POINT THE TIME BEING 7.53 PM

**DECLARATION OF INTEREST**

The Chief Executive Officer advised the meeting that he had received declarations of interest as follows:

**MAYOR STEPHEN LEE**

Declared a Financial Interest pursuant to Section 5.62(1)(ea) of the Local Government Act, 1995, in Item 15.4. The nature of his interest is that as it appears that he was the recipient of a notifiable gift from the developer (Australand) in relation to the 2005 Election at which he was elected, he is therefore deemed to be a closely associated person.

**CLR RICHARD GRAHAM**

Declared a Conflict of Interest, pursuant to Part 21 of Council's Standing Orders, in Item 15.4. The nature of the interest is that he has given evidence at the Corruption and Crime Commission ("CCC") which, by implication, was critical of Australand Limited's conduct in relation to the Port Coogee development. He believes his participation in decision-making in relation to the Port Coogee development gives rise to a perception of a conflict of interest until the CCC makes findings in relation to the matters that were the subject of his evidence.

**CLR VAL OLIVER**

Declared a Financial Interest pursuant to Section 5.61 of the Local Government Act, 1995, in Item 15.4. The nature of the interest is that she received a notifiable gift, relative to the 2005 Election at which she was elected, from Mayor Lee, who is deemed to be closely associated with a person in relation to this matter.

**(MINUTE NO 3675) (OCM 14/2/2008) - APPOINTMENT OF PRESIDING MEMBER**

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Limbert that Clr Ian Whitfield be appointed Presiding Member for this item.

**CARRIED 6/0**



**15.4 (MINUTE NO 3676) (OCM 14/2/2008) - IMPLEMENTATION OF TWO NEW RESERVE ACCOUNTS - PORT COOGEE SPECIAL MAINTENANCE RESERVE AND PORT COOGEE WATERWAYS RESERVE (5402; 93003) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council authorise the establishment of two new reserves, being the Port Coogee Special Maintenance Reserve and the Port Coogee Waterways Reserve, the purpose of each is set out in the attached report.

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

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr T Romano that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/0**

**Background**

To consider the introduction of two new reserve accounts to cover the Port Coogee development, firstly the Port Coogee Special Maintenance Reserve and secondly, the Port Coogee Waterways Reserve. These reserves are being introduced as a result of the Waterways Environmental Management Plan.

**Submission**

N/A

**Report**

The City needs to establish two new reserves associated with the Port Coogee Development.

The implementation of these two new reserves is in line with the signed Waterways Environmental Management Plan (WEMP Agreement) between the City and the Port Coogee Developer, Australand Holdings Ltd.

In addition, sales and marketing material, published by the developer has advised prospective land purchasers of Council's intention to introduce specified area rating.





The first is the Port Coogee Special Maintenance Reserve. The purpose of this reserve is to receive funds from a Specified Area Rate the City will levy if approved by Council to cover the additional cost of increased maintenance of public open spaces, potentially different street lighting styles including the increased cost of operation and other such items constructed by the developer and handed over to the City to maintain.

The second reserve to be established is the Port Coogee Waterways Reserve. The purpose of this reserve is primarily to receive funds from the waterways developer for the maintenance of the waterways sea walls and waterways facilities. In addition, a Specified Area Rate could be considered for those properties with direct frontage to the waterways, where the owners receive a current benefit without having to pay a share for future maintenance in which the liability may be placed on future owners who have had minimal enjoyment of the waterways.

### **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**

A number of amendments to the Budget are recommended.

### **Legal Implications**

Section 6.11 of the Local Government Act 1995 - Reserve Accounts refer.

### **Community Consultation**

N/A

### **Attachment(s)**

N/A

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

N/A

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

Nil.



MAYOR LEE, CLRS GRAHAM AND OLIVER RETURNED TO THE MEETING THE TIME BEING 7.57 PM.

THE PRESIDING MEMBER ADVISED MAYOR LEE, CLRS GRAHAM AND OLIVER OF THE DECISION OF COUNCIL WHILE THEY WERE ABSENT FROM THE MEETING.

MAYOR LEE RESUMED THE ROLE OF PRESIDING MEMBER

**16. ENGINEERING AND WORKS DIVISION ISSUES**

Nil

**17. COMMUNITY SERVICES DIVISION ISSUES**

Nil

**18. EXECUTIVE DIVISION ISSUES**

**18.1 (MINUTE NO 3677) (OCM 14/2/2008) - CITY OF COCKBURN 2007 PROBITY COMPLIANCE AUDIT (1332) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council notes the responses provided to the Department of Local Government and Regional Development in respect of the Probity Compliance Audit conducted by the Department in 2007.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

In May 2007, officers from the Department of Local Government and Regional Development conducted a Compliance Probity Audit of a number of statutory functions related to the administration and governance of the City. The Audit was undertaken at the request of the Chief Executive Officer. A Report was provided to the City's Administration in July 2007 and contained 23 recommendations (copy



attached), to which the Department requested a response be provided. Most of these have been progressively presented to Council in the ensuing months and it is now considered appropriate that a consolidated view of the outcomes be provided.

### **Submission**

N/A

### **Report**

Each of the recommendations has been responded to, either internally where the requirement is relative to employees, or through the Council process, where amendments to any formal documentation was required.

Only one recommendation (recommendation 8) has not been directly responded to, as it relates to the review of Delegated Authorities which will occur in March 2008, when the recommendation to refer to Departmental Guideline 17 will be effected. Otherwise the following responses indicate the action which has been taken to address the issues raised in the Audit Report.

1. That the Chief Executive Officer develops a process to provide information and instruction to Elected Members and Staff on their obligations in completing Primary and Annual Returns.

#### **Response:**

An instructional memorandum is provided to all relevant persons in July each year to assist them in fulfilling their obligations in this regard for Annual Returns.

For Primary Returns, this will only occur for members following an election and is dealt with as part of the induction process for new members. For relevant employees, an updated list of positions which require the completion of Financial Interest Returns will be provided to the Human Resources Unit for inclusion in the induction procedure for these positions.

2. That the Department write to each person listed above and advise them of their obligations and the deficiencies in their Returns for 2005-2006.

#### **Response:**

Two Returns audited for the 2005/06 period identified issues other than the comment "Blank Sections". One employee's disclosures were considered incomplete and has been rectified in the subsequent 2006/07 Return. The other was considered to have lodged an Annual Return in lieu of a Primary Return. This was, in fact, not the case, as the person had provided a Primary



Return on 11 November 2005, following his original start date of 7 November 2005. He subsequently completed an Annual Return, as required, for the period 7 November 2005 to 30 June 2006, although it is acknowledged that these also contain blank sections. The latest instructional memorandum has emphasised the requirement to complete all sections of the Return and not to leave non-applicable sections of the Return blank.

With this in mind, it is not considered necessary for formal advice to be sent to the listed relevant persons and that an inspection of the relevant persons' Returns at the proposed follow-up Audit will demonstrate compliance with the statutory requirements.

3. That the Chief Executive Officer date stamp Returns upon receipt and place copies of acknowledgement letters on the Returns Register.

**Response:**

Implemented from the period applicable to Returns relevant to the 2006/07 financial year.

4. That the Chief Executive Officer develops a Policy which clearly states which staff positions are required to submit Primary and Annual Returns.

**Response:**

A more accurate listing of relevant Staff has been provided to the Human Resources Unit to be incorporated into the induction procedure for new Staff.

5. That the Chief Executive Officer develops a process to ensure that all new staff are provided with a Primary Return in the prescribed form and advised to submit the return within three months of their start day.

**Response:**

Incorporated into the process described in (4) above.

6. That the Chief Executive Officer develops a Policy or Procedure to enable the declaration of Financial, Proximity and Impartiality Interests. As part of this, consideration should be given to the development of standard disclosure forms for each of the interest types and to retaining copies of the written disclosures provided as part of the Register.

**Response:**

It has been recognised that the declaration of these interests at Council meetings has been inadequately handled, primarily due to the lack of understanding by Elected Members on the



disclosure requirements. Since this has been identified as an issue, the disclosure of interests for Council meetings has been more stringently monitored to ensure compliance.

Copies of written disclosures made at meetings are also placed in a supplementary Register to that required under the Act.

7. That the Chief Executive Officer, as a matter of urgency, arranges training for Elected Members and Staff on their disclosure obligations (The Department's Support and Development Branch is available to assist in providing the necessary).

**Response:**

Presentations conducted by Department Staff to Elected Members on 5 November 2007. Council Staff provided a presentation to employees on 12 December 2007.

8. That the Council and Chief Executive Officer undertakes the next review of Delegations with reference to the Department's Guideline 17 on Delegations.

**Response:**

Agree and will diarise this for the Review to be undertaken for 2007/08, scheduled for March 2008.

9. That delegations LGACS1, LGAFCS2, LGAFCS3, LGAFCS5 and LGAFCS7 are reviewed by Council as a matter of urgency and the results of this review are presented to the Department.

**Response:**

Considered by the Delegated Authorities, Policies and Position Statements (DAPPS) Committee on 20 August 2007 and Council in September 2007, although reference to LGAFCS5 should be LGAFCS6, as comments in the Report refer to the latter.

10. That the Chief Executive Officer seeks legal advice on the appropriateness of registering additional dogs prior to consideration of whether the additional dog(s) may be kept at a premises.

**Response:**

Not considered necessary as this requirement was deleted in the review and substituted words which have the effect of making any approvals issued subject to the dog(s) being subsequently registered.

11. It is recommended that the Council reviews Policy SES4 with the view to adopting the Policy whereby it more accurately



reflects the provisions contained in the Model Policy with the guidelines on "Legal Representation for Council Members and Employees" issued in April 2006.

12. It is recommended that the Policy should include but not be limited to the following clauses:

- (a) An application approved by the Chief Executive Officer under Clause 4(1) is to be submitted to the next ordinary meeting of the Council.

Council may exercise any of its powers under this Policy including, at any time, the option of revoking or varying an approval or any of the conditions of approval, for payment of legal representation costs.

- (b) That the same criteria described in Clause 6(3)(a)(b) & (c) are applied to Clause 6(4) of the Policy.

- (c) A description of the manner in which the City may make payment of the legal representation costs.

- (d) That in the case of reimbursement of the legal costs reference is made to the process to be followed in accordance with the Council's Policy SC26 - Reimbursement of Elected Members Expenses.

**Response:**

Initially, it was proposed that a meeting of representatives from the City's Administration, the Department and Council's lawyers be arranged to discuss the recommendation, however, this suggestion was not accepted by the Department. Subsequently, the Policy was amended on the advice of Council's lawyers in December 2007.

13. That the Council amends its Purchasing Policy - SC38 by removing the reference to panel contracts.

14. That the Council gives consideration to amending its Position Statement "Availability of Council Information - PSCS3" to include details on other information that is available for public access as described under Section 5.94 of the Act.

**Response:**

Both of the abovementioned documents were amended by Council in September 2007.

15. That Elected Members and key Staff, participate in an Agendas and Minutes Workshop conducted by the Department's Support and Development Branch.



**Response:**

Presentation made to Elected Members and Senior Staff on 5 November 2007.

16. That the Council undertakes a thorough review of its meeting structure to determine what Committees are required by Council to be established under Section 5.8 of the Act and proceed with the proper operation of those Committees to comply with the Act.

**Response:**

Review document presented to and adopted by Council on 8 November 2007.

17. That consideration is given by the Council to implement a system that properly identifies officers reporting or providing advice to Council. Such a system needs to employ publicly accountable practices to support a satisfactory level of confidence that employees are meeting their statutory obligations under the Act.

**Response:**

It is current practice that the first initial and surname of officers preparing reports for Council/Committee consideration be included in the heading for each item. It is a practice of this organisation that officers having an interest in any matter upon which they are required to prepare a report for consideration by a Committee or Council not participate in the preparation of any report or advisory capacity and that another officer be appointed to handle all reporting and research requirements.

18. The Council gives consideration to recording the recommendation and Council decision together in the Minutes when the recommendation and decision are the same.

**Response:**

Staff have considered this in the past, however, the software Company responsible for the programme has stated that it will require a major software upgrade to introduce the recommended change. On that basis, the matter has not been pursued.

19. That all decisions of Council are in the form of motions that are clear in their intent and enable a person to understand what has been decided without reference to another motion or information contained in the body of a report.

**Response:**

Now implemented as a matter of course.



20. That the Council more closely monitors its process in relation to dealing with confidential business to ensure that the decision to close a meeting or part of a meeting is always recorded in the minutes of that meeting in accordance with Section 5.23(3) of the Act and the reason for the closure is directly relevant to the matter being discussed.

**Response:**

It does not necessarily follow that all items listed on the Council Agenda as "Confidential Business" are actually considered behind closed doors. Sometimes, it is only to protect the integrity of confidential documentation and the Council resolution is adopted as part of an enbloc motion which carries all items which are not subject to debate at the meeting.

21. That the Chief Executive Officer issues a memorandum to all Staff reminding them of their obligations under the Code of Conduct as it relates to the acceptance of gifts. This memorandum should include details of what should be declared and what is not required for declaration. Staff should also be advised to provide full details of the name/s of person/s giving and receiving a gift.

**Response:**

Issued in December 2007, to coincide with the Christmas period.

22. That the Chief Executive Officer arranges for guidance and advice to be provided to Elected Members and Staff on ensuring that appropriate declarations of gifts are made that meet a professional standard for public disclosure.

23. That the Chief Executive Officer issues a memorandum to all Elected Members reminding them of their obligations under the Code of Conduct as it relates to the acceptance of gifts.

**Response:**

Such advice is now included as part of the induction procedure for new Elected Members and Staff in future.

**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**

The Audit was relative to a variety of statutory provisions contained in the Local Government Act, 1995, the implications of which are noted in the subsequent Report and recommendations.

**Community Consultation**

N/A

**Attachment(s)**

1. Summary of Recommendations.
2. Review Report (provided under separate cover as a confidential attachment to all Elected Members).

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

N/A

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

Nil.

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

Nil

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

Nil

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

- 21.1 (MINUTE NO 3678) (OCM 14/2/2008) - CHANGE OF DATE - AUDIT COMMITTEE MEETING AND DELEGATED AUTHORITIES, POLICIES & POSITION STATEMENTS COMMITTEE MEETING, MARCH 2008 (5017) (D GREEN)**

**RECOMMENDATION**

That Council:

- (1) amend the date of the Audit Committee Meeting and the Delegated Authorities, Policies and Position Statements



(DAPPS) Committee Meeting, scheduled to be held on 20 March 2008, to Wednesday, 19 March 2008; and

- (2) not set specific dates for conducting the Chief Executive Officer (CEO) Performance and Senior Staff Key Projects Appraisal Committee.

**COUNCIL DECISION**

MOVED Clr C Reeve-Fowkes SECONDED Clr T Romano that the recommendation be adopted.

**CARRIED 9/0**

**Background**

At the Council Meeting held on 8 November 2007, Council established an Audit Committee, DAPPS and the CEO Performance and Senior Staff Key Projects Appraisal Committees and resolved that it meet, as a minimum, on the third Thursday of March, July and November. The Council decision also delegated the authority for the Audit Committee to meet with the Auditors.

**Submission**

N/A

**Report**

As the Audit Committee has the authority to perform a function which is delegated to it by Council, it is necessary for its meeting to be conducted with open doors. There is a requirement for all publicly accessible meetings to be advertised in advance when they will be conducted over the ensuing 12 month period. Subsequently, public notice has been given that the Committee will conduct a meeting on 20 March, 2008, which is the day prior to Good Friday. As it is a likely that some members will be away for the Easter period it is recommended that Council brings the Meeting forward to Wednesday, 19 March 2008. It is also suggested that the DAPPS Committee meet on the same night. However, that Council not specify the dates to conduct the CEO Performance and Senior Staff Key Projects Appraisal Committee, as there is a tendency for this meeting to commence late at night. By not being specific enables the Presiding Member more flexibility in setting the date for this Committee to conduct its business.



## **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**

Regulation 12(1) and (2) of the Local Government (Administration) Regulations, 1996 refer.

## **Community Consultation**

Change of date to be advertised by local public notice.

## **Attachment(s)**

N/A

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

N/A

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

Nil.

### **21.2 (MINUTE NO 3679) (OCM 14/2/2008) - 2008 ANNUAL GENERAL MEETING OF ELECTORS MOTION - NO CONFIDENCE IN THE CEO, MAYOR AND COUNCIL OF THE CITY OF COCKBURN (1713) (D GREEN)**

#### **RECOMMENDATION**

That Council:

- (1) notes the Motion of No Confidence in the CEO, Mayor and Council of the City of Cockburn, carried at the Annual General Meeting of Electors, held on 5 February 2008; and
- (2) reiterates its support for the roles of the Mayor and CEO in implementing the strategic vision set by Council.



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

At the Annual General Meeting of Electors conducted on 5 February 2008, the following motion was carried by 25 votes to 12.

*A vote of no confidence in the CEO, Mayor and Council (of the City of Cockburn) because of the way Council treats ratepayers.*

**Submission**

N/A

**Report**

While the motion was carried, there is not any specific action which Council is required to consider as a result of the resolution. However, the wording of the motion includes reference to individual officials of the City (CEO and Mayor) as well as the body corporate (Council). Accordingly, there is an opportunity for Council to reiterate its support of the Mayor and CEO, who are essentially responsible for implementing the strategic direction adopted by Council.

It is considered prudent that Council moves to quickly reinforce its position in relation to its vision for the future of Cockburn and to demonstrate this commitment to the community at the earliest possible opportunity.

**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**

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



**Community Consultation**

The motion was carried by 25 votes to 12 at a legally convened meeting attended by approximately 80 Electors.

**Attachment(s)**

N/A

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

The mover of the motion has been advised that this item is to be considered at the 14 February 2008, Council Meeting.

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

Nil.

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

Nil

**23. CONFIDENTIAL BUSINESS**

Nil

**24. (MINUTE NO 3680) (OCM 14/2/2008) - 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**

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

**CARRIED 9/0**

**25 (OCM 14/2/2008) - CLOSURE OF MEETING**

8.02 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: ...../...../.....

