

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 NOVEMBER 1999 AT 7:30 P.M.

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 NOVEMBER 1999 AT 7:30 P.M.

#### PRESENT:

##### COUNCIL MEMBERS

Mr J F Donaldson - Chairperson of Joint Commission  
Ms J L Smithson - Joint Commissioner  
Mr M A Jorgensen - Joint Commissioner

##### IN ATTENDANCE

Mr R W Brown - Chief Executive Officer  
Mr D M Green - Director Community Services  
Mr A T Crothers - Director, Finance & Corporate Services  
Mr S M Hiller - Director, Planning & Development  
Mr B K Greay - Director, Engineering & Works  
Mrs B Pinto - Secretary to Director, Finance & Corporate Services

#### 319. (AG Item 1) DECLARATION OF OPENING

The Presiding Member declared the Meeting open at 7.30 pm.

Cmr Donaldson advised that the City of Cockburn had received at the 1999 Best Practice Awards, the Performance Measurement Award. He said the City had been working on this very hard for quite sometime. It received the Award in conjunction with the City of Albany and Shire of Busselton. The Award was presented by the Western Australian Municipal Association. He said benchmarking and measurement in the activities carried out by Council in providing services to the community is very important. On behalf of the Commissioners he congratulated staff for this Award.

Also received by the City was yet another Award. This Award being the Cities for Climate Protection Program. He said Cockburn reached a milestone in reducing gas output and Council is working towards the second milestone. It is one of the few local governments which has



achieved this Award and many others are now joining with Cockburn in an attempt to reduce greenhouse gas emissions.

**320. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)**

Nil

**321. (AG Item 3) DISCLAIMER**

The Presiding Member read aloud the following disclaimer:

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.

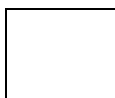
**322. (OCM1\_11\_1999) - APOLOGIES & LEAVE OF ABSENCE**

Nil

**323. (OCM1\_11\_1999) - PUBLIC QUESTION TIME**

**Mr Laurie Humphreys**, a ratepayer and suspended Councillor spoke with regard to the legal representation provided to the staff in relation to the Inquiry into the City of Cockburn. He asked why are officers of Council being treated differently from ex-Councillors or suspended Councillors in relation to reimbursement of legal expenses? In the report to Council it was stated that Council considered that officers should be subject to different treatment from suspended and past Councillors due to there being no adverse finding in the Martin-Vicary Report in relation to this decision-making process, whereas there was in the case of the Council. He asked whether the Commissioners are aware of the issues which are currently before the Inquiry for which legal expenses are being paid? In the current Inquiry it is investigating whether the City's employees, and elected members act lawfully and properly? Therefore he asks why should the City employees in this particular Inquiry for which legal expenses are being paid, be treated any different from Councillors, bearing in mind that the Inquiry is enquiring into both.

Cmr Donaldson replied by saying that the information is contained in



the background of last month's Agenda. The Commissioners made the decision that as a result of the Martin-Vicary Report the Inquiry was into the Council. In the Commissioners judgement the Martin-Vicary Report did not contain any information which indicated that staff were to be investigated and as a result of that the decision was made.

Cmr Jorgensen made another point by saying that the Minister suspended the Council, not the staff.

**Mr Ray Lees**, a ratepayer and also a suspended Councillor spoke in relation to Agenda Item 15.1 - Waste Minimisation Strategy. He said he did agree with most of it but not all of it. He requested the Commissioners that when the matter is discussed, he would like the Commissioners to take into account the tip passes which Council had issued for the last 10 to 15 years. This Council was reluctant to give them up, although Administration tried very hard to do away with them. He felt if the tip passes were taken away, rubbish would be dumped in bushland as is currently happening. He said the rates too will go up in future years to come. He strongly urged the Commissioners to take into account the ratepayers of the City when Item 15.1 is discussed.

**Julie Gore** representing the Principal, Staff, students and parents of Yangebup Primary School, spoke in relation to the application made by Western Resource Recovery. She said the School lobbied very vigorously for most of last year against the Waste Treatment Plant being built in their area. The Mayor attended the whole School Assembly in November 1998 to inform them of the decision made by Council which would protect them from the Waste Treatment Plant being built. She said if the decision that is made tonight is to accept the Officer's recommendation, they officially invite the Commissioners to attend the whole School Assembly on 2 December 1999 at 9 am as they would like an explanation as to how a decision by a full Council of their duly elected representatives can be overturned by just three people? How three people they did not elect and who do not live in the area are able to or would want to overturn a decision which was unanimously endorsed by Council and by the people. She said power without a moral duty of care is dangerous and wrong. The Principal, Staff, students and parents of Yangebup Primary School do not want the Waste Treatment Plant to be built in Cocos Park. She said they trust that the Commissioners will carry out their obligation to care for their welfare.

**John Knox** is a student of Yangebup Primary School and also lives in the area. He asked whether the Commissioners are aware that the Liquid Waste Treatment Plant is only 800m away from his School. He said he did not want a noxious industry this close to the School.



**Jan Langely**, is a resident of Yangebup and also former President and currently Vice President of the Yangebup Progress Association. She said she would like to state that in her opinion there has never been such an issue and outcry from the people before from the Association. It has aroused a lot of interest and concern. She informed Commissioners to please be aware that there is considerable danger in the proposed waste liquid treatment plant. She hoped the Commissioners recognise the local opposition in the same way as the elected Councillors. She tabled a petition that had been tabled once before on the same matter. She asked why have the proponents re-applied when their land is on the market for sale?

Com Donaldson replied that he was not aware of the sale of the land, but requested the Director, Planning and Development to provide an answer to which he said that he had no answer to the question. All that is before Council is an application for consideration.

**Joan Livingstone**, a ratepayer spoke on the Waste Treatment Plant. She said she felt secure that the elected Councillors were looking after the concerns of her children and in the community's interest in relation to the location of the waste treatment plant. She requested the Commissioners to give their assurance that they will represent the community by rejecting the application.

Com Donaldson responded by saying that he felt that there is an expression coming from the gallery that the Commissioners were there to represent some other constituency than the people of Cockburn. He did not believe that there was any evidence to date to represent that view. He felt that the Commissioners have listened very carefully to community concerns and stood quite hard on a number of issues. He also outlined that some people who attended earlier meetings felt the Commissioners had some other Agenda but that is not the case. He said with every assurance irrespective of what might be said in the community, they are there to listen to what ratepayers want and try to reflect this in the decisions that are made, what is best for the City of Cockburn and its community. He again re-iterated that they do not carry any other Agenda and it is not in their brief to do so. He assured the community that it is understood there is absolutely no other Agenda but to provide the best outcome for the community.

**Lynn Wright**, is the current President of Yangebup Primary School P and C. She said the very fact that the Waste Treatment Plant is back on the Agenda again is of great concern to all. They don't have their elected Councillors at present to depend on. She went on to say that in the Barry Robins Report on the Waste Treatment Plant, the Conservation Council of WA classed the Treatment Plant noxious. The



McNiece Report also ruled this plant to be noxious and unsuitable for a general industrial zone. By making a new application she asked what has changed that classification?

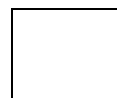
Cmr Donaldson responded by saying that there is a fresh application before Council and it is duty bound to consider that application. He said the proponent has a right to make an application as a commercial enterprise and equally you as a community who will be most affected by the application have every right to put your point of view as strongly as you wish.

**Linda Winstrum**, a resident and ratepayer of Yangebup. She requested a point of clarification in that, it is her understanding that the legal information obtained actually states that liquid does not come under noxious. However, she said that the decision in the Supreme Court is quite clear and quotes:

*In my mind a natural reading of the relevant part of definition of an offensive trade in Schedule 2 for the purpose of the meaning of a noxious industry in the Town Planning Scheme will make it such an industry including a trade and manufacture where the industrial processes or manufacture involved will create emissions of various kinds, solid including dust, liquid or gaseous which are or may become unless preventative measures are taken would become a nuisance to the inhabitants of the district.*

She sought clarification on the above. Cmr Donaldson requested the Director, Planning and Development to respond to which he said that further legal advice in response to this matter was obtained. It is clear from this advice that the problem is how this industry is defined. The way in which it is defined in Council's Scheme and most other Schemes is that an industry mostly deals with articles in terms of the process and a decision taken by Justice French some years ago suggested that the processing of liquids did not fall in the definition of industry. So therefore if it does not fall within the definition of industry it cannot be classified as noxious and this reflects the most recent advice received in relation to this particular matter. Previous legal advice related to McNiece and this has not changed. The issue now is the way in which industry is defined under the Schemes and most other Schemes in WA for that matter.

**Mr Martin Reeve-Fowkes**, a ratepayer of Yangebup spoke with reference to the legal advice received. He asked when will this legal advice become a public document?



Cmr Donaldson replied that at the moment it is not a public document and the Council will make a decision at the December meeting as to what to do with it. Mr. Reeve-Fowkes asked since Council had legal advice, once last year and now again, isn't it time that it decided to go to Court, reject the change, refuse the proponents application on the grounds that it is noxious industry incompatible with general industry zoning and if need be fight it in Court?

**John Maston**, President of the Yangebup Progress Association. He expressed his interest of definition of mining and had concerns with liquid products. He requested Council to look at it from a view point that whilst the legal system might say one thing, rationally it should be looked at from a view point of what is realistic and if that may mean having to go to Court to fight it on the basis of realism, because this is where people are and live.

Cmr Donaldson stated that he appreciates the points raised but feels that the Council would be irresponsible to make decisions to commit ratepayer funds which were not founded on good legal advice. He said this may lead to yet another inquiry if we took this course of action.

**Dr Carmen Lawrence**, Member for Fremantle and duly elected representative at a Federal and State level. She said that she takes a very strong interest in these matters which affect the amenity of residents that fall within her Electorate. She is very well aware that the residents of Yangebup have made it very clear about their desires and been very reasonable and very patient and to find this back on the Agenda she feels that this is an insult to those residents who believed the matter had been determined. They believed their elected Councillors had made a decision based on legal advice given to them as recently as twelve months ago. She said the same person now proposes to overturn clear advice at that time, and she quotes (Council Minutes - Nov. 1998):

*The process involves a noxious industry and it is not up to Council to approve a development application for the process on the proposed site under its present zoning of General Industry.*

She said the residents have now been informed that that advice is revised. Why is it that the explanation given today is extremely thin? Why should this judgement overturn the previous judgement made by the lawyer? Did it precede or follow the McNiece Ruling? Who sought the advice the second time that now seeks to overturn the original decision? Why was additional information sought in this case when there was already clear legal advice and the Town Planning Scheme had not changed in the interim? She hoped that the Commissioners





will re-assure the residents that this matter will be dealt with not by refusing the application necessarily but rather to say, that they re-affirm the original decision. The original legal advice is good, the Council decision made by elected representatives is good and nothing should be changed in the interim. A process for appeal should not be forthcoming. The moment this happens the State Planning Authority and the Minister for Planning can intervene and turn a Council decision. The Council made a wise decision in the past and this is where it should stay. She asked what legal advice had been obtained? Was it based on French rather than McNiece and if so, why and who sought that legal advice?

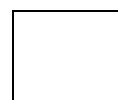
Cmr Donaldson responded that the general issue was that the information the Council has received had changed. He had no answer as to why this had occurred.

Cmr Smithson said that the application lodged must be considered by Council. Council does not have any alternative but to determine the application. The applicant in lodging the application clarified the details of the process previously provided. The McNiece Ruling is about process and preventative action. As a result of that process, it was referred to the same Solicitor, Council's Solicitor, for further legal advice. That advice came back, that because of the details of the processes, it was advised that if it only involved a liquid it is not a noxious industry. This was the legal advice obtained and what was in the report and therefore the recommendation is before Council.

Cmr Smithson re-affirmed Cmr Donaldson's earlier statement that this Council is under suspension for not conforming with legal advice provided and therefore the Commissioners feel Council is duty bound to consider it.

**Neil Oxley** a local resident spoke on Item 13.5 - Liquid Waste Treatment Plant. He said that this matter has been to Council twice. He informed the Commissioners that there was no new application made to the Water Corporation. He said that Cocos Park is treated by Woodman's Point Treatment Plant. He stated that if Western Resource Recovery is prepared to build the site they should be prepared to work with the residents and build it in an industrial area where it is relevant and put a sewer line in.

**Margaret Stewart** spoke on the same matter. She said all other plants around Australia are 4 kms. from residents and this is situated only 700m away. Is there any reason why it cannot be located further away?



**Mr Martin Reeve-Fowkes** asked whether Council would be prepared to sanction an independent Consultant's Report? He said there has never been an independent report from an independent specialist in this field such as a University. He asked whether this could be put on hold pending another report?

Cmr Donaldson responded by saying that it is certainly worth looking at.

**Julie Baker** representing Bibra Lake Organised Citizens spoke on the proposal by Landcorp to make a limestone sand quarry at Lot 11-13 Phoenix Road, Bibra Lake: She had four questions to ask:

1. What type and if so what response of environmental assessment has been requested?

Director, Planning and Development replied that Council has written and requested for the Environmental Protection Authority to formally assess the proposal, but to date he was unaware of any response.

2. Are the Commissioners aware that there is a review from the Environmental Protection Authority for the Swan Coastal Plain and Lakes Policy 1992 which is up for comment until 24 November. Has Council made any submission on this?

Director, Planning and Development responded that Council would most likely be making a submission and it was his understanding that the Manager, Environmental Services would handle this matter.

3. In the draft forwarded by the Environmental Protection Authority, a register will be forwarded as conservation for wetlands on direct impact such as drainage, land clearing, filling, mining and excavation irrespective of the period of inundation and water permanency. They are intending to change that Policy. Does Council have any comment on that?

Director, Planning and Development replied that the Manager, Environmental Services would be aware of it but unsure how it relates to the site. The actual application will not be processed until December.

4. Seeing this is a big proposal put forward will Council wait for the Impact Study to be put forward before they make a comment, which will be in mid-2000?

Director, Planning and Development responded that Council will



not be waiting that length of time as there is an obligation to deal with the application within a certain time. So Council will be using the information available at that time.

Cmr Smithson said that Council hopes to receive the Environmental Protection Authority's comments before the application is considered.

**Mrs Mary Jenkins**, a ratepayer of Spearwood also spoke on Lot 11-13 Phoenix Road. She said that it is her understanding that the submission period has not yet closed on the proposed limestone mining.

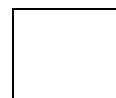
Cmr Donaldson replied that the submission period closes on 28 November.

Mrs Jenkins presented a petition that not only takes into account the limestone mining but also sand mining and the protection of our natural heritage which is bushland of Cockburn. The bushland acts as a buffer zone and also an important habitat for our flora and fauna. The long term implication of the depletion of this bushland will have a tremendous impact in the future. She requested Council to seriously give thought when this matter is discussed.

Mrs Jenkins also presented a submission on Agenda item 13.1 - Submission against the present Concept Plan and in support of a more Integrated Development Zone in the region of North Coogee. She had great concerns at the lack of vision in the present plan. Some of those concerns being many social problems in Cockburn such as youth unemployment, suicide, teenage pregnancy, drug abuse, vandalism and home invasion by youth. She said Cockburn lacks recreation and employment facilities, especially for young people.

The proposed Concept Plan to develop North Coogee is another residential only area which falls into the same trap as all other developments within the City of Cockburn. It was her view that if the present Concept Plan is implemented it will only increase the existing alienation of youth and residents' fears of being subjected to future attacks of antisocial behaviour. She also said that community involvement from the start will make for easy acceptance of the Plan. She urged the Commissioners to consider this proposition and ask Prof. Newman, who is a world renowned Town Planner for his advice on the development of North Coogee.

**Mr Stephen Lee**, a ratepayer and suspended Councillor spoke with regard to Agenda Item 13.5. He referred to an earlier point that was raised in relation to the Inquiry. He said the current Council stance on the issue was that it did not support it. At no time has any Inquirer



or investigator asked any question or to my knowledge has any other Councillor been asked any question on the previous stance on this matter. So to have a concern that it may become a subject of an inquiry and the current Council may be accused of wasting money, he did not think would be the case. He felt that this would be something that ratepayers would be desirous of using funds for this purpose.

Mr Lee raised another point that the legal advice that is being given to this Council when the original McNiece Ruling was made, this Council voted against its legal advice and won the decision on the McNiece ruling. The previous Council said it was not comfortable and ratepayers said they did not want this, so the Council refused the application. His concern was that once it was advertised, it would be lost because it could be subject to all avenues of appeal. He therefore requested the Commissioners to favourably consider the matter.

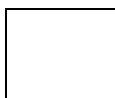
Mr Lee raised an issue with regard to Agenda Item 12.2 - Proposed New Delegated Authority to Officers Manual. He mentioned that he did not receive the Agenda attachment. Director, Community Services said that he, being a suspended Councillor, was entitled to a copy. He said perhaps it may have been an oversight.

Mr Lee also raised a similar issue with regard to Agenda Item 12.3 - Proposed New Policy Manual. He mentioned that he did not receive the Agenda attachment. Director, Community Services said that he, being a suspended Councillor, was entitled to a copy. He said this too may have been an oversight.

Mr Lee requested the Director, Community Services to investigate the matter as it has happened in the past and has also been brought to Administration's attention of this error. He requested the Director, Community Services to ensure that this does recur again.

On another matter, Mr Lee spoke with regard to Agenda Item 15.1 - Waste Minimisation Strategy. He said presently the policy allows for mulch to be collected from the verge. Further to previous communication with the Director, Engineering and Works it was determined that greenwaste was creating a problem. So Council decided that the ratepayers take this away to the landfill site and were making use of this facility. But with the new strategy, the proposal is for all greenwaste to be brought to the landfill site to be stockpiled in a separate area, shredded and then removed from the site. He asked the Director, Engineering and Works whether it was his intention to remove it from the site prior to ratepayers obtaining a trailer load for themselves? Director, Engineering and Works replied that should the ratepayers want a trailer load they could have it.

His other concern was the investigation to be conducted into a number of issues as outlined in Agenda Item 15.1. His understanding was that



prior to investigating those issues he believes a conclusion has already been reached that no more tip passes will be provided to ratepayers. There is an assumption being made that the ratepayers will not want or need these because they will have a second bin.

Cmr Donaldson responded that tip passes will be made available and this will be clarified when the item is discussed.

**Mr Phil Mendel**, a resident of Yangebup spoke in relation to a road plateau in Grassbird Loop to improve road safety. He said that the traffic calming device may slow down the traffic at this point, but most speeding drivers will avoid the plateau by proceeding in the opposite direction and so transfer the safety problem to the northern section of the road, making it dangerous for children playing at the front of their family homes.

He said since receiving Council's response he approached residents at the northern section of the road. Most were supportive of the proposal to close off the road at this point. Mr Mendel presented a petition from residents of Grassbird Loop to close off the road at the northern section.

Cmr Donaldson replied that the letter has been received and Council will respond appropriately.

**Mrs Mary Jenkins** spoke on Item 13.1 - Adoption of Integrated Coastal Management Strategy for the City of Cockburn. She asked whether the BP site at Jervoise Bay had been considered and recommended by Council, within the Coastal Management Plan?

Cmr Donaldson responded that the Management Plan does not include the Jervoise Bay area.

Cmr Donaldson read an email letter received from **Alexandria Winter**, a resident of Yangebup and a ratepayer expressing her utmost concern regarding the proposed liquid waste treatment plant in Cocos Drive. She says in her letter that the proposed plant had been denied permission on two previous occasions by elected Councillors and that no further discussion was necessary to reject the application.



**324. (AG Item 8.1) (OCM1\_11\_1999) - ORDINARY MEETING OF COUNCIL - 26/10/99**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the Minutes of the Ordinary Council Meeting held on Tuesday, 26 October 1999 be confirmed subject to amending Council Decision of Minute No.317 - Legal Representation - Mr. S. Ryan - Douglas Inquiry into the City of Cockburn by replacing the word "Mr Brown" with "Mr Ryan" where it appears during the resolution.

**CARRIED 3/0**

**325. (AG Item 12.1) (OCM1\_11\_1999) - RADIO 6PR RUMOUR FILE - 10/2/1999 - ALLEGATION OF CORRUPTION (1041; 92182) (RWB)**

**RECOMMENDATION**

That Council instruct McLeod & Co not to seek an apology from Radio 6PR for comments made on the "Rumour File" on the 10th February 1999.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

On Radio 6PR on the 10th February 1999 during the session known as the "Rumour File", the station received a telephone call at which time some defamatory remarks were made about the Mayor of Cockburn.

Advice was sought from McLeod & Co who confirmed that the remarks were defamatory. Council, at its meeting of the 16th March 1999, adopted the officer's recommendation to instruct McLeod & Co to seek an apology.

**Submission**

N/A

**Report**

In April 1999, McLeod & Co advised the Chief Executive Officer by telephone, that the Council decision and instruction emanating from the 16th March 1999 meeting, had not been actioned as Council's correspondence had been temporarily mislaid.



Due to the lapse of time from the event of the alleged defamation, it was intended to seek advice whether the Council decision still should be implemented. A further consideration was the status of the Inquiry into the City. The discovery of the Council's letter of instruction was around the time Councillors were suspended. It was intended to take the matter back to Council for further instruction. This did not occur due to Council's suspension.

The issue has been raised now as a result of the Inquiry into the City's handling of Lot 1 Berrigan Drive.

Mr Grljusich was written to on the 6th October 1999 and appraised of the situation. He was advised that if an apology was still considered appropriate, instruction would be issued immediately to that effect. Alternatively, if advice was not received by the 15th October 1999, the matter would be placed before Council. No advice was received.

Due to the lengthy time which has elapsed, it is recommended that Council does not pursue the apology.

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

N/A

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

McLeod's have advised that no account will be levied for the original opinion.

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

Nil

### **326. (AG Item 12.2) (OCM1\_11\_1999) - PROPOSED NEW DELEGATED AUTHORITY TO OFFICERS MANUAL (1054) (DMG)**

#### **RECOMMENDATION**

That Council adopts the Register of Delegated Authority to Officers, as contained in the attachments to the Agenda.

**TO BE PASSED BY ABSOLUTE MAJORITY OF COUNCIL**

#### **COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that:

(1) the Register of Delegated Authorities to Officers, as contained in



the attachments to the Agenda be adopted; and

- (2) an item be placed on the next Council Agenda which relates to DA-F5 - Local Government Act 1995 - Acceptance of Tenders and that the report deal with the issue of keeping Council informed of accepted tenders.

**CARRIED 3/0**

### **Explanation**

While Council is comfortable with adopting the Delegations as presented, it would like the Delegation of Acceptance of Tenders (DA-F5) reviewed to ensure there is a mechanism in place to advise Councillors of Tenders awarded under delegated authority.

### **Background**

Pursuant to Section 5.46(2) of the Local Government Act, 1995, Council is required to review all delegations made at least once in each financial year.

### **Submission**

N/A

### **Report**

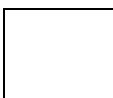
During the most recent review of delegations, in December, 1998, Council resolved to delegate the administration of nearly all of its Policy statements, in addition to the traditional list of delegated functions previously discharged through Council officers.

While the intent of this decision was sound, it caused a significant increase in administrative compliance, as the task of recording each transaction, as required under the Act became very time consuming.

In reviewing this practice, it has now been deemed unnecessary for most of the Policies to require a delegation for their purpose to be carried out.

Consequently, a large number of Policy delegations have now been withdrawn, on the grounds that these are capable of being administered without a specific delegation being required.

Therefore, the final Draft register comprises those functions capable of being delegated in order to streamline the business of Council and also those Policies which are reflective of a Council position on particular issues and which are directional by nature and not merely administrative.





**Strategic Plan/Policy Implications**

Strategic Action Plan Item 1.7 "Council Administration" refers.

**Budget/Financial Implications**

Nil.

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

Nil.

**327. (AG Item 12.3) (OCM1\_11\_1999) - PROPOSED NEW POLICY MANUAL (1054) (DMG)**

**RECOMMENDATION**

That Council adopts the Manual of Policy Statements, as contained in the attachments to the Agenda.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED that the recommendation be adopted.

**CARRIED 3/0**

**Background**

It is Council practice to review its Policies on an annual basis, at the same time as its review of delegations.

**Submission**

N/A

**Report**

The proposed Policy Manual is largely reflective of Council's current Policies, with the deletion of some now obsolete statements. Some of the Policies have had some minor word adjustments to either clarify their intent or bring them into line with current practices or requirements.

The main reason for the relative consistency of this document is that Policy statements, unlike delegations, are constantly reviewed for their



suitability and tend to be amended on regular occasions throughout the year as deemed necessary.

**Strategic Plan/Policy Implications**

Strategic Action Plan Item 1.6 "Leadership and Direction" refers.

**Budget/Financial Implications**

Nil.

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

Nil.

**328. (AG Item 13.1) (OCM1\_11\_1999) - ADOPTION OF INTEGRATED COASTAL MANAGEMENT STRATEGY FOR THE CITY OF COCKBURN (9120) (DW) (ALL)**

**RECOMMENDATION**

That Council adopt the Integrated Coastal Management Strategy as a guide to coastal planning and management within the City.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that:

- (1) the integrated Coastal Management Strategy be adopted as a guide to coastal planning and management within the City;
- (2) Council commend the Manager, Environmental Services, Ecoscape and other Consultants involved on the comprehensive nature of the Strategy;
- (3) a Budget submission be prepared detailing costings for capital works for the areas of the coast under Council control and management; and
- (4) copies of the Report be made available to the public

**CARRIED 3/0**

**Explanation**

It was decided that Council should show its appreciation to all those involved in the preparation of such a comprehensive report. Council felt



it was necessary to prepare costings for capital works to be undertaken as well as a maintenance schedule for the coastal area.

## **Background**

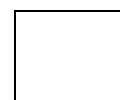
The development of an Integrated Coastal Management Strategy for the City was commenced in early 1998. Funds were provided for the development of the Strategy through the Coastcare Coastwest grants programme with matching funding provided by Council.

The overall aim of the Strategy is to develop an Integrated Coastal Management Plan for the City's coastal zone to guide future planning and management of coastal resources to ensure sustainability and enhancement of its natural, cultural and recreational values while providing for appropriate economic activities. The Strategy was based on developing a holistic approach to coastal management and planning within the City, with key objectives including the identification and description of the environmental, social, cultural, leisure and recreational values of Cockburn's coastal zone including current and future human usage, identification of current and future planning and land use constraints and opportunities, identifying conflicts, issues and opportunities relating to the sustainable development and management of the coastal zone. The project also required the development of detailed strategies and actions relating to the following:

- protection and enhancement of natural values, nearshore water quality and coastal processes.
- provision of recreational and community facilities and public access
- protection and enhancement of cultural values
- tourism and promotion
- sustainable land use development and future planning and land use within the coastal zone
- management of human use related impacts
- capital works and ongoing maintenance required.
- the development of an overall land use plan for the coastal zone which integrated existing land use and development proposals with future use and development of Cockburn's coastal zone.
- community involvement in coastal planning and decision making.

For the purposes of the study the coastal zone was defined as the area bounded roughly by the ridgeline to the east of the coastline and nearshore waters to 500 metres of the high water mark.

The preparation of the plan was undertaken by consultants Ecoscape in conjunction with Coastwise Planning and Management. An inhouse



working group of key staff was formed to liaise with the consultants and manage the project. Additionally, a steering committee was formed which included members from key government agencies, the aboriginal community and a Councillor representative. Community consultation in the development of the plan also occurred through a community workshop, mail-back questionnaire and direct stakeholder group consultation.

The development of the plan progressed through a series of drafts with a final draft for public comment being published in March. The final version of the Strategy incorporating the comments received during the public comment period have now been completed and is presented to Council for final endorsement.

### **Submission**

The community consultation which consisted of community workshops, a mail-back questionnaire and stakeholder group consultation indicated that many local people have a high regard for a broad range of values which they attribute to the Cockburn coast including environmental, cultural, recreational, social and aesthetic values. A strong message from some sectors of the community indicated that there is considerable concern that many of these values are under threat from a number of large scale development proposals planned within Cockburn. Ideas and visions developed through this consultation were incorporated into the strategies and land use concepts outlined in the Strategy.

A number of submissions were received on the draft plan presented for public comment. A copy of a summary of the submissions and responses in the final plan are attached to the Agenda. As can be seen from the summary a number of minor changes to the final plan occurred as an outcome of comments received, although the major thrust and direction of the Strategy remains unchanged.

### **Report**

A copy of the Strategy has been provided separately to all Commissioners with the Executive Summary and key figures attached to the Agenda.

The Strategy provides a detailed description of Cockburn's coastal area, particularly in terms of environmental values, recreational uses, cultural and historical aspects. The Strategy also establishes a number of key coastal planning principles and describes both current and future land use proposals associated with the coast.

The Strategy incorporates a detailed assessment of constraints and opportunities associated with the various sections of the Cockburn coast. Based on this assessment a range of coastal planning and



environmental management recommendations are made. These recommendations range from strategies for land use, development of commercial activities, improvement of public access to beach areas, upgrading and provision of facilities and recognition of cultural, social and historical values. An overall concept plan which integrates land use and provision of facilities is detailed in the Strategy.

Overall, the Strategy and Concept Plan does not suggest major change in terms of land use and development within the City's coastal zone, although it is supportive of the redevelopment of industrial land in North Coogee and restates Council's previous position in relation to proposals such as the Southern Harbour development. The majority of recommendations and strategies are associated with improving coastal facilities, public access and the environmental and recreational values of our coastal zone. Implementation of recommendations will require the co-operation of a number of State Government agencies which control and manage large areas of the Cockburn coast. Council will play an important role in influencing the decisions and developments undertaken by these State Government agencies, with the Integrated Coastal Management Plan providing an holistic and sound basis for Council in terms of decision making and management associated with areas of the coast managed directly by Council and in influencing State Government agencies with a role in coastal landuse and development.

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

Strategy 2.3 and Action Item 2.3.7 apply.

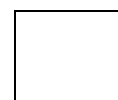
### **Budget/Financial Implications**

The implementation of the Strategy will require ongoing resourcing both by Council and State Government agencies with an interest in coastal land within the City. Funds have been provided through Coastwest/Coastcare for the development of a detailed works and maintenance schedule for the areas of the coast under Council control and management. This more detailed plan will provide detailed costings for capital works and can be used as a basis for future Coastcare funding applications for on-ground environmental management works.

The improvement and development of facilities identified within the Strategy will need to be addressed as part of normal annual budgetary processes and priorities.

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

Nil.



**329. (AG Item 13.2) (OCM1\_11\_1999) - PROPOSED TOWN PLANNING SCHEME NO. 3 MODIFICATIONS - CONSENT TO ADVERTISE (9485) (SMH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the modifications to the Proposed Town Planning Scheme No. 3 in accordance with the attachment to the Agenda;
- (3) resolve to proceed with the Scheme and to settle the modifications with the Commission together with other modifications which appear necessary as provided for under Regulation 14 (4)(a)(i) of the Town Planning Regulations;
- (4) forward the modifications to the Western Australian Planning Commission for its consideration;
- (5) subject to the modifications being accepted by the Commission, the Council seek the Commission's approval to proceed to advertising under Regulation 15.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

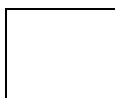
**Background**

The Council submitted the proposed Scheme to the Commission together with the revised Local Planning Strategy, for approval to advertise following its meeting held on 25 May 1999.

**Submission**

On the 14 October 1999 the WAPC advised:-

*"I refer to your letter of 27 May 1999 and advise that the Hon Minister for Planning has given consent for the above Scheme to be advertised for public inspection subject to the modifications set out in the attached Schedule being effected prior to advertising.*



*In accordance with the provisions of Regulation 14(4) of the Town Planning Regulations, 1967 (as amended), Council is required to return the modified documents to the Commission within 42 days, or any longer period approved by the Hon Minister, of being notified of the modifications, if Council resolved to proceed with the Scheme.*

*Upon return of the Scheme documents to the Commission, modified in accordance with the above requirements, the Scheme will be advertised for a period of three months subject to:*

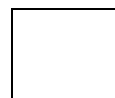
1. *the City notifying in writing the following agencies and any other agencies and organisations it considers appropriate, within seven (7) days of the commencement of advertising to the effect that the Scheme is available for public submission and inviting submissions:*

*Main Roads Western Australia  
Water Corporation  
Western Power  
Alinta Gas  
Telstra  
Ministry of Housing  
Department of Transport  
Department of Conservation & Land Management  
Valuer General's Office  
Department of Local Government  
Bikewest  
Heritage Council of Western Australia  
Health Department of Western Australia  
Fire and Emergency Services  
Department of Land Administration  
Westrail  
Ministry of Education  
Dept of Aboriginal Affairs (Aboriginal sites)  
Air Services Australia  
Department of Commerce and Trade  
Department of Minerals & Energy  
Department of Resources Development  
Adjoining local governments*

2. *the City undertaking any further action it considers appropriate in addition to the statutory requirements under the Town Planning Regulations to advise the public that the Scheme is available for public inspection and inviting submissions.*

*You are advised that the Commission has noted the City's Local Planning Strategy.*

*The Commission further resolved to advise Council as follows:*



- (1) *The Scheme Maps reflect the South-West Districts Omnibus Metropolitan Region Scheme Amendment 991/33 (3B). Given that this amendment has completed advertising and will shortly be recommended for final approval (subject to finalisation of environmental conditions), it is appropriate that the Scheme reflects the proposed zonings and reserves in Amendment 991/33.*
- (2) *The Scheme Text includes provisions for the Resource Zone which are intended to implement Statement of Planning Policy No. 6 Jandakot Groundwater Protection Policy. These provisions are based on Amendment 202 which is currently being discussed between Council and the Ministry. The Commission has accepted the inclusion of these provisions in the Scheme for advertising. The provisions, however, may need to be modified at the final approval stage to reflect the outcome of Amendment 202.*
- (3) *Under proposed changes to the Town Planning Regulations to introduce the Model Scheme Text it is intended to replace the Scheme Report by a Local Planning Strategy. The Regulations will set out the process for preparation, advertising, approval and amendment of the Local Planning Strategy. At this stage, the Regulations have not yet been gazetted and the Commission is unable, therefore, to endorse the Local Planning Strategy in the terms proposed in the Regulations. The Commission has, therefore, noted that the Scheme Report has been prepared in the form of a Local Planning Strategy which is consistent with the current Regulations. A minor modification is necessary to the Local Planning Strategy to delete the second and third paragraphs on page 2 beginning "The Local Planning Strategy..." in order to reflect the present position. It is noted that the Council has adopted the Local Planning Strategy which will give effect to the Local Planning Strategy as a relevant consideration.*

*One set of Scheme documents is returned herewith.*

*Yours faithfully"*

## **Report**

A response to the 31 modifications required to the Scheme Text and Map is set out in the attached report.

Under Regulation 15(4) the Council must:-

- "(4) *Within 42 days, or any longer period approved by the Minister, of being notified of any modifications required by the Minister, the local government shall —*





- (a) *if it resolves to proceed with the Scheme —*
- (i) *settle the modifications with the Commission together with any modifications which appear to be necessary at that time;*
  - (ii) *request the Commission to obtain the consent of the Minister to the further modifications; and*
  - (iii) *resubmit the Scheme documents with the required modifications duly carried out;*

*or*

- (b) *if it resolved not to proceed with the Scheme, notify the Commission in writing of that resolution."*

**Strategic Plan/Policy Implications**

The Council is committed to preparing and implementing Proposed Town Planning Scheme No. 3.

The review of Scheme No. 2 fell due in February 1997.

**Budget/Financial Implications**

The Council has set aside \$39,545 for legal drafting and public consultation.

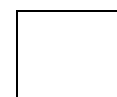
• Account 500476	Legal Drafting	\$19,545
• Account 500474	Public Consultation	<u>\$20,000</u>
		<u>\$39,545</u>

Prior to advertising there will be a need to determine a public advertising strategy.

The WAPC only requires compliance with the Regulations. Regulation 15 requires:-

- Advertised in accordance with Form No. 3 in Appendix A
- Available for inspection during office hours at the Council and the WAPC
- Advertised **once** in a local newspaper
- Display the Scheme in a prominent position
- Public comment period to be not less than 3 months.

Regulation 16 provides for the public to lodge formal submissions on the Scheme on Form No. 4A.



This matter will require further discussion in order to determine the extent to which the Council will go beyond the minimum requirements contained in the Regulations.

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

Nil.

- 330. (AG Item 13.3) (OCM1\_11\_1999) - PROPOSED SHED AND LEAN-TO - LOT 4; 29 GUTTERIDGE ROAD, BANJUP - OWNER: D BOWDEN - APPLICANT: D CHEONG & ASSOCIATES (5513727) (MT) (EAST) (MAP 20)

**RECOMMENDATION**

That Council:

- (1) approve the application for a shed and lean-to on Lot 4; 29 Gutteridge Road, Banjup subject to the following conditions:

Standard Conditions

- 1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N<sup>o</sup> 2;

Special Conditions

- 1. A written statement being provided to Council as to the proposed use of the shed.
- 2. The use of the shed must comply with Council's requirements for the zone.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

ZONING:	MRS:	RURAL - WATER PROTECTION ZONE
	DZS:	SPECIAL RURAL ZONE NO. 4 - TAPPER ROAD, BANJUP



LAND USE:	HOUSE & SHED
LOT SIZE:	20 004m <sup>2</sup>
AREA:	315m <sup>2</sup>
USE CLASS:	N/A

### Submission

The plans submitted indicate a steel shed 18 metres long by 15 metres wide, with a 3 metre wide lean-to on one end. The shed is to be 5.5 metres high. It is set back approximately 120 metres from the front and 23 metres from the closest side boundary (the western boundary). A copy of the submitted site plan is attached to this agenda.

### Report

The applicant has stated verbally that the shed is to be used to house a private vintage car and truck collection. The shed is large in floor area and height. However it has ample setbacks to all boundaries. It should not impact on the amenity of the area, provided it is painted a colour of natural or earth tonings to complement the surroundings. A standard condition to this effect will be included on the approval.

### Strategic Plan/Policy Implications

Council Policy PD 18 "Ancillary Outbuildings (sheds) in Special Rural and Rural Zones" states that *"any shed in excess of 200m<sup>2</sup> in area and/or 4.5 metres in height...must be referred to Council for development approval."*

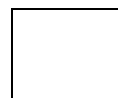
PD 43 "Rural – Water Protection Zone (MRS) Jandakot states that applications for development on land zoned "Rural – Water Protection Zone" under the Metropolitan Region Scheme must be referred to the Water & Rivers Commission. However, as the exceptions in the Policy include "Outbuildings", the application did not require referral.

### Budget/Financial Implications

N/A

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

Nil



**331. (AG Item 13.4) (OCM1\_11\_1999) - FINAL ADOPTION - AMENDMENT NO. 212 - ADDITION OF BED AND BREAKFAST ACCOMMODATION USE TO SCHEME (92212) (MT)**

**RECOMMENDATION**

That Council:

- (1) adopt Amendment No. 212 for final approval with the following modification:-
  1. deleting Clause (iv) from the Amendment Text;
- (2) in anticipation of the Hon Minister's advise that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission.
- (3) request the Western Australian Planning Commission modify Amendment 202 - "Resource Zone" before final approval by the Hon Minister to add a "Note 4" to the foot of the "First Schedule - Zoning Table" and the words:- "The use Bed and Breakfast Accommodation shall be an "SA" use, in accordance with Clause 3.2.2 of this Scheme.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

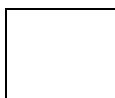
Council, at its meeting held on 27 July 1999, resolved to initiate the amendment to its Scheme to add the use "Bed and Breakfast Accommodation".

The EPA advised by way of letter dated 3 September 1999 that the amendment did not require assessment. The amendment was advertised by way of advertisement in the West Australian newspaper. No submissions were received during the prescribed period.

**Report**

There were no submissions received in regard to the amendment.

The Amendment as advertised included adding the use as an "SA" use in all the Special Rural Zones. However Amendment 202 to Council's Scheme deletes the Special Rural Zones and adds the "Resource Zone".



This amendment is currently with the WAPC before being forwarded to the Minister for gazettal. In order to ensure Bed & Breakfast Accommodation is an approvable use in the Resource Zone, it is necessary to recommend to the WAPC that Amendment 202 be modified. The addition of the use in the Special Rural Zone can therefore be deleted from the text of Amendment 212.

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

N/A

### **Budget/Financial Implications**

N/A

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

Nil

- 332. (AG Item 13.5) (OCM1\_11\_1999) - PROPOSED LIQUID WASTE TREATMENT PLANT - LOT 197 COCOS DRIVE, BIBRA LAKE - OWNER/ APPLICANT: WESTERN RESOURCE RECOVERY (4412617) (SR) (SOUTH) (MAP NO 8)**

#### **RECOMMENDATION**

That Council:

- (1) on the basis of the further legal advice received, determine that the proposal constitutes a 'use not listed' under the provisions of the Scheme;
- (2) advertise the proposal for a period of 21 days in accordance with Clause 6.2.3(b) and (c) of the Scheme;
- (5) advise the Applicant, the Minister for the Environment and the Yangebup Progress Association of (1) and (2) above.

#### **COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that:

- (1) the matter be deferred to the December meeting of Council; and
- (2) Council seeks a Queen's Counsel (QC) opinion on this matter.

**CARRIED 2/1**



**Explanation**

It was felt that this being such a complex issue, the matter required further legal advice and this may best be sought from a QC, although legal advice had been received from Council's Solicitors. Any decision taken on the issue could trigger an appeal mechanism, and there is potential for the issue to be taken to Court. Considering the depths and breadths of public opinion, it was decided it would be best to defer the matter until this advice has been sought.

Council felt that it has a responsibility and that the application should be treated very seriously, as it would not like to set a precedent when other applications of a similar nature are received situated in that area.

**Background**

ZONING:	MRS:	Industrial
	DZS:	General Industry
LAND USE:	Vacant	
LOT SIZE:	7133m <sup>2</sup>	
AREA:	3000m <sup>2</sup> (approx. building area)	
USE CLASS:	To be determined	

Council first considered the proposal at its meeting on 3 December 1996 and resolved as follows:-

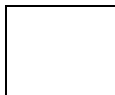
*"(1) subject to receipt of advice that the proposal is not subject to formal assessment under the Environmental Protection Act, the Director of Planning and Development be authorised to grant approval to the Liquid Waste Treatment Facility in accordance with the plan dated 22 October 1996 subject to the following conditions:*

*Standard Conditions*

- Standard conditions contained in Council Policy PBH 3.1 as determined appropriate to this application by the delegated officer under clause 7.6 of Town Planning Scheme - District Zoning Scheme No.2*

*Special Conditions*

- All offensive odours to be effectively retained within the confines of the subject property. Details of measures to control odour emissions to be submitted to Council's Environmental Services Section for approval prior to commencement of development.*



2. *All waste water and stormwater to be retained on the site. All spillage and stormwater in materials handling and processing areas to be collected separately and directed to an appropriate on-site treatment facility.*
3. *All handling of waste products is to be carried out under cover and shall ensure no run-off occurs other than to a sealed collection point.*

#### *Special Footnotes*

1. *All dangerous goods to be stored in accordance with the requirements of DOME.*
2. *Approval from the Water Corporation be granted prior to the commencement of development.*
3. *Approval from the Water and Rivers Commission be granted prior to the commencement of development.*
4. *The development shall not commence until such time as a Works Approval is issued by the DEP."*

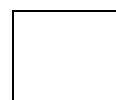
The project was, however, subject to formal assessment by the Environmental Protection Authority and no Planning Approval was issued. The Company states that it relied upon the form of advice given to them regarding the Council Resolution. They purchased the land and undertook the Consultative Environmental Review process with an expectation that a Council Planning Approval would issue in the event that they were able to obtain environmental approval.

The CER process was undertaken by the Company in 1997 and following public notification of the proposal there was substantial local public concern about potential environmental impacts. This resulted in a public meeting held on 30 June 1997 in the Yangebup Community Hall.

Legal advice was sought at that time regarding the status of Council's 3 December 1996 Resolution. The Company was accordingly advised that the Council would reconsider the application for Planning Approval at the conclusion of the CER process.

Further legal advice was provided in respect of the 1984 'McNeice' decision of the Supreme Court. The effect of this advice was that at its meeting on 21 October 1997 Council resolved inter alia as follows:-

- "(1) advise the applicant that in the light of further information on the proposal provided through the CER and other processes, and detailed legal advice on the matter, that it has come to the conclusion that the process proposed*



*involves a Noxious Industry and it is not open to Council to approve a development application for the process on the proposed site under its present zoning of General Industry under District Zoning Scheme No. 2;"*

The Department of Environmental Protection issued its report on the proposal on 5 December 1997. The Summary and Recommendations of the DEP were included as an Attachment as are the proponent's environmental management commitments. The DEP was advised at that time that the 1984 McNeice decision prevented Council issuing a Planning Approval, apart from the fact that the DEP had recommended to the Minister for the Environment that the project be granted environmental approval under the Environmental Protection Act. This advice was also provided to the Minister for the Environment on 22 December 1997.

A number of Appeals against the Report and Recommendations of the EPA relating to the proposal were submitted to the Minister for the Environment. The Minister has yet to determine these Appeals.

Council at its meeting on 9 November 1998 reconsidered the proposal and resolved as follows:

- "(1) reconfirm its decision of 21 October 1997;*
- (2) advise the applicant that in the light of further information on the proposal provided through the CER and other processes, and detailed legal advice on the matter, that it has come to the conclusion that the process proposed involves a Noxious Industry and it is not open to Council to approve a development application for the process on the proposed site under its present zoning of General Industry under District Zoning Scheme No.2; and*
- (3) refuse the application."*

The Company has now submitted a fresh Planning Application for Council's consideration (details attached).

### **Submission**

The proposed waste treatment facility will treat commercial/industrial waste from oil and grease traps, waste oil, oil contaminated water and other non-sewerable liquid wastes and sludges with contaminants which require chemical fixation. The plant would not treat pesticides, PCB's or materials which are flammable, explosive or radioactive.

Typical sources of the wastes are food processing, automotive service and metal finishing industries.





## Report

The outcome of the CER process is that the proposal is considered environmentally acceptable by the EPA, provided that the DEP's recommended conditions are implemented by the proponent. These include commitments to stringent odour control and an avoidance of transport routes through the Yangebup residential area.

In assessing the proposal, the EPA sought advice from a range of government agencies as well as appointing an independent consultant to review the proposal. Key issues assessed related to impacts on groundwater quality, odour, noise and vibration, solid and liquid wastes, off-site risk and transport.

In relation to odour, the proponents undertook odour modelling which revealed that levels of odour at the nearest residence (approximately 800 metres distant) would be well below acceptable levels. Modelling undertaken by the DEP confirmed this, with the proponent bound to a commitment to install the latest available scrubbing and process monitoring systems in addition to a standby power system to ensure that odour emissions meet predicted levels at all times.

Off-site risks were assessed as acceptable, with the proponent required to implement an environmental management system to ensure events which could increase risk are not accepted at the site and prepare a suitable emergency response plan prior to commencement. In terms of transport, the proponent is bound to a commitment to negotiate appropriate routes and delivery times with relevant authorities, including Council.

Overall, the EPA's report advised that whilst some deficiencies in the CER document were highlighted in the assessment process, the Authority was satisfied that these deficiencies had been addressed by the proponent through the assessment process. Approval was recommended subject to the proponent's environmental management commitments and the preparation of an environmental management system to the EPA's requirements.

The EP Act requires that decision making authorities do not make any decisions which would cause a proposal to be implemented until such time as the Minister for the Environment has granted environmental approval.

Council's current position that the proposal constitutes a 'Noxious Industry', due to incorporation of preventative measures to overcome any potential nuisance (ie, particularly odour nuisance) is not subject to an Appeal right via the normal Ministerial or Tribunal processes. It can only be challenged by a Supreme Court writ of mandamus or similar action.



The current legal advice outlines that the proposal may not fall within the "Industry" category as the processes are predominantly dealing with liquids, sludges and materials in solution, rather than solid materials which fit the definition of an 'article'. Based on the advice, it is open to the Council to interpret the applicable 'use class' as being a 'use not listed', rather than a 'Noxious Industry'. This allows Council to consider approving the proposal, subject to the following prerequisites:-

1. Interpretation of the use class as a Use not listed based upon legal advice;
2. Completion of the public advertising procedures required by Clause 3.2.4 and 6.2 of the Scheme;
3. The Minister for the Environment having granted environmental approval prior to any formal decision being made by the Council regarding Planning Approval;

It would also be open for the Council to refuse the proposal as a 'Use not Listed'; a decision that would then be subject to a right of appeal to either the Minister for Planning or the Town Planning Appeals Tribunal.

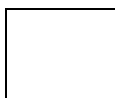
In the event that the Officer Recommendation is not accepted and the Council wishes to refuse the proposal (after having characterised the use as a 'Use not Listed'), the following grounds may be relevant:

1. The proposed use is considered to constitute an 'Offensive Trade';
2. Its exclusion from the 'Noxious Industry' use class is anomalous, being only by virtue of the use comprising the processing of liquids as opposed to 'articles';
3. Approval of a use constituting an 'Offensive Trade' within the 'General Industry' zone is considered to be inconsistent with the objectives and purpose of the zone.

The Officer Recommendation is that the application be advertised and that the Hon. Minister for the Environment be advised accordingly. This will enable a final decision regarding Environmental Approval to be made by the Hon. Minister.

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

Strategy 4.4 - 'Ensure that environmental issues are adequately recognised in the Council's planning and decision-making processes.'



**Budget/Financial Implications**

Legal costs to be determined.

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

Nil.

- 333. (AG Item 13.6) (OCM1\_11\_1999) - PROPOSED AMENDMENT NO. 196 TO DISTRICT ZONING SCHEME NO. 2 - PORTION OF RESERVES 39455 AND 39584 COCKBURN ROAD, HENDERSON AND PORTION OF VACANT CROWN LAND NORTH OF RESERVE 39455 COCKBURN ROAD, HENDERSON (92196) (SA) (COASTAL) (MAP 10)**

**RECOMMENDATION**

That Council:

- (1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME CITY OF COCKBURN - DISTRICT ZONING SCHEME NO.2.

AMENDMENT NO.196

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

1. Rezoning Portion of Reserves 39455 and 39584 Cockburn Road, Henderson and Portion of Vacant Crown Land north of Reserve 39455 from "Unzoned" to "General Industry (Restricted Use - Marine Engineering)" in accordance with the Scheme Amendment Map;
2. Include portion of Reserves 39455 and 39584 Cockburn Road, Henderson and Portion of Vacant Crown Land north of Reserve 39455 in the Third Schedule - Restricted Use under 10. Cockburn Road; and
3. Amend the Scheme Maps accordingly.

DATED THIS 16th DAY OF NOVEMBER 1999



## CHIEF EXECUTIVE OFFICER

- (2) upon preparation of the amending documents, sign the amending documents, and forward a copy to:-
1. The Environmental Protection Authority in accordance with Section 7A(1) of the Act; and
  2. The Western Australian Planning Commission for information.
- (3) following receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the proposed amendment in accordance with the Town Planning Regulations 1967 (as amended);
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to Council for further consideration following formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act;
- (5) advise the applicant of Council's decision.

**COUNCIL DECISION**

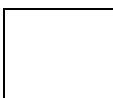
MOVED Cmr Smithson SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

The Western Australian Planning Commission has recently updated the Metropolitan Region Scheme (MRS) for the proposed Jervoise Bay Infrastructure Project. The MRS Amendment No.1001/33, which is subject to Section 38 Assessment by the Environmental Protection Authority, was finalised earlier this year.

The purpose of the MRS Omnibus Amendment is to incorporate changes to zones and reservations arising from decisions made by the WAPC or Government proposals for the use of land, more detailed studies of specific proposals, and generally to ensure the MRS is kept up to date as the statutory regional plan for Perth.



## Submission

As a result of MRS Amendment 1001/33 (No. 3A) a section of land was left unzoned. Amendment No.196 will rezone Portion of Reserves 39455 and 39584 Cockburn Road, Henderson and Portion of Vacant Crown Land north of Reserve 39455 from Unzoned to General Industry (Restricted Use - Marine Engineering).

## Report

This proposal will enable the construction of a southern link road between Cockburn Road and the Fremantle-Rockingham Highway along the southern boundary of the Marine Related Heavy Industry precinct. The proposal provides for a 20 metre road reservation width with appropriate intersection truncations at the existing Cockburn Road and the Fremantle-Rockingham Highway.

This link is designed to accommodate local traffic only and does not provide for local access to the Marine Related Heavy Industry precinct. Regional traffic will be encouraged onto Stock Road.

Reserve 39455 is vested in the City of Cockburn with the power to lease. The land in question forms a small part of the Beeliar Regional Park and lies between the existing cleared industrial estate to the north and the Go-Kart track to the south. The portion of Reserve 39455 affected by this proposal is very small in area, degraded and of no significant environmental value. The transfer of this land to General Industry will not affect the integrity of the Beeliar Regional Park.

The proposed alignment of the southern link road also offers the opportunity to transfer a portion of the General Industry zoned land, which has been isolated through the creation of the road, to Parks and Recreation reservation. This was completed as apart of MRS Amendment 1001/33 No. 3A) This gain in Parks and Recreation reservation offsets the loss of a small portion of Reserve 39455.

## Strategic Plan/Policy Implications

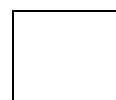
Corporate Strategic Plan Strategy - Clause 2.1 - Promotion of Henderson Ship building area.

## Budget/Financial Implications:

Council to pay all costs associated with the Amendment.

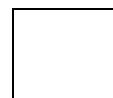
## Implications of Section 3.18(3) Local Government Act, 1995

Nil





		<p>c) The development of an industry or business without provision of separate vehicle access for the residential portion of the lot;</p> <p>d) Anything to be developed other than a residential dwelling or building incidental to the residential dwelling, on the hatched portion on the Outline Development Plan.</p> <p>Council may impose whatever conditions it deems necessary, including but not restricted to:</p> <p>a) The siting of the residential dwelling to provide a residential aspect to the road frontage;</p> <p>b) The use of landscaping, siting and fencing of the industrial or business development to screen it from view from residential areas;</p> <p>c) The siting of the industrial or commercial development to aid in the shielding of any possible noise from the Railway Reserves;</p> <p>d) The siting or design of the industrial or commercial development to prevent noise from impacting on the locality.</p> <p>Residential setbacks shall be applied in accordance with 'R20' in the Residential Planning Codes of Western Australia.</p>
<p>2. Amending the Scheme Map by:-</p> <p>(a) Rezoning Part Lot 11 Erceg Road and a portion of Part Lot 22 Erceg Road, Lot 23 Simper Road and Part Lot 30 Yangebup Road, Yangebup from 'Light Industry' to 'Mixed Business' with 'Additional Use: Factory Unit Building; Home Occupation; Light Industry; Single House; Transport Depot'.</p> <p>(b) Rezoning Part Lots 20 and 24 Simper Road, Part Lot 25 Yangebup Road and a portion of Part Lot 22 Erceg Road, Lots 1 and 23 Simper Road and Part Lot 30 Yangebup Road, Yangebup from 'Rural' to 'Mixed Business' with 'Additional Use: Factory Unit Building; Home Occupation; Light</p>		



Industry; Single House; Transport Depot’.

Dated this.....day of.....1999

Chief Executive Officer

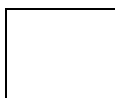
- (2) sign the amending documents, and:-
  - (i) refer the amendment to the Environmental Protection Authority for assessment under Section 7A2 of the Town Planning and Development Act;
  - (ii) advise the WAPC of Council’s decision;
- (3) forward a copy of the signed documents to the Western Australian Planning Commission with a request to advertise the amendment following 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;
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme Amendment to the Council for further consideration following formal advise from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act.
- (5) advise the applicant of Council’s decision accordingly and request an undertaking to pay all costs associated with the amendment, and preparation of the documents with modifications to the Development Plan as deemed necessary by Council officers.
- (6) request the WAPC amend the zoning of the subject land in the Metropolitan Region Scheme from “Urban Deferred” to “Urban” .

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that:

- (1) the following amendment be adopted:

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME  
CITY OF COCKBURN DISTRICT ZONING SCHEME NO. 2







		<p>a) The siting of the residential dwelling to provide a residential aspect to the road frontage;</p> <p>b) The use of landscaping, siting and fencing of the industrial or business development to screen it from view from residential areas;</p> <p>c) The siting of the industrial or commercial development to aid in the shielding of any possible noise from the Railway Reserves;</p> <p>d) The siting or design of the industrial or commercial development to prevent noise from impacting on the locality.</p> <p>Residential setbacks shall be applied in accordance with 'R20' in the Residential Planning Codes of Western Australia.</p>
<p>2. Amending the Scheme Map by:-</p> <p>(a) Rezoning Part Lot 11 Erceg Road and a portion of Part Lot 22 Erceg Road, Lot 23 Simper Road and Part Lot 30 Yangebup Road, Yangebup from 'Light Industry' to 'Mixed Business' with 'Additional Use: Factory Unit Building; Home Occupation; Light Industry; Single House; Transport Depot'.</p> <p>(b) Rezoning Part Lots 20 and 24 Simper Road, Part Lot 25 Yangebup Road and a portion of Part Lot 22 Erceg Road, Lots 1 and 23 Simper Road and Part Lot 30 Yangebup Road, Yangebup from 'Rural' to 'Mixed Business' with 'Additional Use: Factory Unit Building; Home Occupation; Light Industry; Single House; Transport Depot'.</p> <p style="text-align: right;">Dated this.....day of.....1999</p> <p style="text-align: right;">Chief Executive Officer</p> <p>(2) Council sign the amending documents, and:-</p> <p>(i) refer the amendment to the Environmental Protection Authority for assessment under Section 7A2 of the Town Planning and Development Act;</p>		



- (ii) advise the WAPC of Council’s decision;
  - (3) a copy of the signed documents be forwarded to the Western Australian Planning Commission with a request to advertise the amendment following 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;
  - (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme Amendment to the Council for further consideration following formal advise from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act.
  - (5) the applicant be advised of Council’s decision accordingly and request an undertaking to pay all costs associated with the amendment, and preparation of the documents with modifications to the Development Plan as deemed necessary by Council officers.
  - (6) Council request the WAPC to amend the zoning of the subject land in the Metropolitan Region Scheme from “Urban Deferred” to “Urban” .
- CARRIED 3/0**

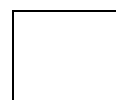
**Explanation**

Council does not operate with the Outline Development Plan but only with the Development Plan. Therefore the word *Outline* is irrelevant to the Amendment and should be deleted to avoid confusion.

To make it clear that the Plan is very important to the successful implementation of this composite residential and industrial area, Council needs to ensure that the relationship between the uses achieves acceptable levels of amenity for future residents.

**Background**

ZONING:	MRS:	URBAN DEFERRED
	DZS:	LIGHT INDUSTRY & RURAL
LAND USE:	VACANT	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	



The Simper Road area has been the subject of three unsuccessful amendments to Council's Scheme (Amendment N<sup>os</sup> 40, 52 & 96). These previous amendments have sought to rezone the land to Residential R20. Concerns about noise from the railway lines surrounding the land from Westrail and the Ministry for Planning's Transport Branch have prevented rezoning to residential. There have also been unresolved issues with regard to access to the area. At present there are two level crossings, from Erceg Road in the north and Simper Road to Yangebup Road in the south. The Simper Road access is to be closed when Beelias Drive is constructed.

### **Submission**

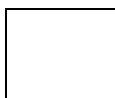
The applicant has requested the land be rezoned to Mixed Business with additional uses permitted. The composite zone will allow a combination of light industrial, commercial and residential uses. It is intended to act as a buffer between the existing industrial and residential areas.

A concept development plan attached to this agenda details how subdivision could be expected to proceed if the amendment was successful. It shows nine large lots to the north of Erceg Road acting as a buffer to the general industrial uses on the other side of the railway. The land to the south of Erceg Road contains the composite residential / industrial lots. The residential component is generally contained along an internal road, creating a residential frontage along that road. The light industrial / commercial aspect of the composite lots surrounds the housing, acting as a noise barrier from the railway. An area of Public Open Space is included, calculated on 10% of the residential component.

All composite lots will have two street frontages, one to the residential dwelling and the other to the industrial / commercial. The separation of the crossovers will minimise conflict between commercial and domestic vehicles.

### **Report**

The proposed composite area is an innovative solution for a constrained piece of land. Surrounded by railway reserves on all sides, traditional residential would be affected by noise from the railway and existing general industry to the north. A rezoning to industry has the potential to cause amenity issues for existing residential to the east and future residential to the south and west. The proposed amendment would create a transitional zone, eliminating both of these concerns. It creates an opportunity for people to live and work in close proximity, a feature promoted by the Livable Neighbourhoods Community Design Codes. It will cater for those people who wish to have a business and residence on the same property. At present no such opportunity exists in the City of Cockburn. Those wishing to do so inevitably purchase in the Rural or



Special Rural Zones and establish a workshop or similar business without Council consent.

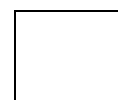
The proposed method of implementing through the Scheme is to rezone all the land to Mixed Business. Mixed Business, rather than Light Industry, is considered the most appropriate zoning because it reflects the composite nature of the area and emphasises that all locating businesses must have not any noise or other impacts. It is necessary to add some uses that are not permitted by "Schedule 1 – Zoning Table" in the Mixed Business zone. These include a "Single House and "Light industry". These uses are added to the "Second Schedule – Additional Uses" table and overlay the zoning of the land as shown on the "Proposed Zoning" map attached to this agenda.

Conditions on the development of the land are proposed for inclusion in the Additional Uses table, as allowed by Clause 3.3 of the Scheme. Specific controls on this composite use are required to ensure Council can control how development proceeds. These conditions include:

- the siting of the houses and commercial buildings so as to minimise impact, particular from noise, on the composite residences and the surrounding residential;
- ensuring only residential is developed along the residential street and a separate crossover is created for the residential component; and
- restricting occupation of the dwellings to owners, managers or employees (and their families) of the businesses within the area subject of the Amendment. This condition is important to maintain the limited housing stock for people employed in the composite area. It is expected employees of the area would be more tolerant of noise generated from the businesses.

An Outline Development Plan needs to be included with the amendment. This will take a form similar to the Concept Development Plan submitted by the applicant and attached to this agenda. A number of modifications are necessary. Council officers will work with the applicant on the finalisation of Plan and it can be considered by Council when the Amendment is return following advertising. Modifications include a reconsideration of the desirability of having residential lots without a commercial / industrial component. Access to the area will also need to be resolved. As it stands at the moment, the estate would have only one road access, along Erceg Road, which is a level crossing. This may prove to be unacceptable to Council and the emergency services.

The land is currently zoned "Urban Deferred" under the Metropolitan Region Scheme. Before Council's amendment can be gazetted, the MRS must be amended to "Urban". Council can request an amendment to this effect be initiated.



**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

335. (AG Item 13.8) (OCM1\_11\_1999) - AMENDMENT NO. 203 - PROPOSED ADDITIONAL USE: RECYCLING OF GREEN WASTE, LIMESTONE RUBBLE, TOPSOIL AND ROUGH FILL - LOT 1 ROCKINGHAM ROAD, HENDERSON - OWNER: COMSE NOMINEES - APPLICANT: MASTERPLAN (92203) (CC) (COASTAL) (MAP 10)

**RECOMMENDATION**

That Council:

- (1) adopt the recommendations contained in the Schedule of Submissions;
- (2) adopt the amendment subject to:
  - (a) the modifications contained in the Western Australian Planning Commission's letter of 31 August 1999 with the exception of 3(a); and
  - (b) the following modified wording to the first paragraph under the heading Addition Use Permitted:

*'The portion of Lot 1 identified on the Scheme Map as 'Additional Use Recycling Facility' may be used for the recycling of green wastes, limestone rubble, topsoil and rough fill, such use no to include the recycling of manures, composting or waste disposal'.*
- (3) In anticipation of the Honourable Minister for Planning's advise the final Approval will be granted, the amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission;
- (4) advise the applicant of the Council's decision.



**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that:

- (1) adopt the recommendations contained in the Schedule of Submissions;
- (2) adopt the amendment subject to:
  - (a) the modifications contained in the Western Australian Planning Commission's letter of 31 August 1999 with the exception of 3(a); and
  - (b) the following modified wording to the first paragraph under the heading Additional Use Permitted:
 

*'The portion of Lot 1 identified on the Scheme Map as 'Additional Use Recycling Facility' may be used for the recycling of green wastes, limestone rubble, topsoil and rough fill, such use is not to include the recycling of manures, composting or waste disposal'.*
- (3) In anticipation of the Honourable Minister for Planning's advice that final Approval will be granted, the amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission;
- (4) advise the applicant of the Council's decision.

**CARRIED 3/0**

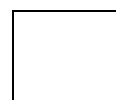
**Explanation**

It was noted that there were a few typographical errors in the recommendation.

**Background**

ZONING:	MRS:	RURAL
	DZS:	RURAL
LAND USE:	FORMER LIMESTONE QUARRY	
LOT SIZE:	13ha	
AREA:	5ha	
USE CLASS:	N/A	

Council at its meeting of 16 March 1999 resolved to adopt Amendment 203 to TPS No. 2 for an additional use over a 5 hectares portion of Lot 1



Rockingham Road, Henderson to allow for the recycling of green waste, limestone rubble, rough fill and topsoil.

A 'sunset clause' is also proposed in the amendment so that the recycling facility operates only as long as the adjacent City of Cockburn tip is operational. *See Agenda Attachments for March report and background details*

### **Submission**

Advertising of the Amendment 203 comprised the placing of a sign adjacent to Rockingham Road and the notification of adjacent and nearby landowners and government agencies.

No submissions were received from nearby and adjoining landowners although, during advertising of original development proposal 4 submissions were received 3 of which object to the proposal on amenity grounds.

The Waters and Rivers Commission recommends the monitoring of ground water for contaminates. This issue may be dealt with in the development approval with appropriate conditions or footnotes.

Other referral authorities either raise no objections to the amendment and/or advise of their servicing requirements.

### **Report**

The WAPC has requested modifications to the amendment prior to submission of the document for final approval. *See Agenda Attachments for WAPC modifications*

The modifications include rewording of the additional use as follows:

'The portion of Lot 1 identified on the Scheme Map as 'Additional Use Recycling Facility' may be used for the recycling of green wastes, limestone rubble, topsoil and rough fill. Council will not allow Lot 1 to be used for the recycling of manures, composting or waste disposal'.

Although there are no objections to the revised rewording, the applicant has requested the last sentence of the rewording not to refer to Lot 1, as the amendment is only for a portion. There are no objections to this and it is considered appropriate for Council to request the WAPC to revise the rewording accordingly.

The WAPC has also requested minor modifications to the amendment report and maps which do not alter the intent of the amendment.





The Department of Environmental Protection's Draft Guidelines for Industrial – Residential Buffers indicates a buffer distance of 200 metres between recycling facilities and residential areas. The Wattleup Town site is 600 metres from the subject site and only one residence on Lot 10 Rockingham Road (Rural zone) is just within 200 metres of the operation. A works approval of the Department of Environmental Protection will be required for the operation.

Adoption of the modified Amendment 203 for final approval is considered appropriate on the following grounds.

- The site's location adjacent to the tip and within the 500 metre Environmental Protection Policy tip buffer impacts on the site's ability to cater for traditional rural uses.
- The lower elevation of the site should limit off site impacts such as dust and noise and views to the activity.
- No substantial objections being received.

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

Under Policy PD15 'Ultimate Strategic District Plan' the land is included in an area depicted as 'Urban'.

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

N/A

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

Nil

- 336. (AG Item 13.9) (OCM1\_11\_1999) - MODIFICATION TO AMENDMENT NO. 201 - SOUTH BEACH DEVELOPMENT - VICINITY OF ROLLINSON ROAD - OWNERS: VARIOUS - APPLICANT: MITCHELL GOFF & ASSOCIATES (92201) (SOS) (WEST) (MAPS 1 & 2)**

#### **RECOMMENDATION**

That Council:

- (1) recommend to the Western Australian Planning Commission that the following modified text replace the current amending text in Amendment No. 201;

1. Rezoning:

- (i) Pt Lot 1815 Ocean Drive, Lots 21 and 100

Rollinson Road, Hamilton Hill from "General Industry" to "Development" zone;

(ii) Lots 114 to 121 inclusive O'Connor Close and Lot 127 Rollinson Road, Hamilton Hill from "Light Industry" to "Development" zone;

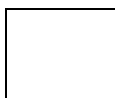
as depicted on the Scheme Amendment Map.

2. Transferring Pt Reserve 11430 and Vacant Crown Land, Island Street and O'Connor Close from the "Railways" Reserve to the "Development" Zone as depicted on the Scheme Amendment Map.

3. Adding to the Ninth Schedule in relation to the North Coogee Development Area (DA 12) the following:

NINTH SCHEDULE  
DEVELOPMENT AREAS

Ref no.	Area	Provisions
DA12	North Coogee	<p><i>With regard to land included in the "Development" zone in DA12;</i></p> <ol style="list-style-type: none"> <li>1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development:</i></li> <li>2. <i>The provisions of the Scheme shall apply to the land use areas created under the Structure Plan:</i></li> <li>3. <i>The purpose of the Structure Plan is to provide for the redevelopment of the industrial area north of Rollinson Road ensuring compatibility of land use with adjoining uses, co-ordinating access to and through the area, creating an attractive and functional mixed use environment;</i></li> <li>4. <i>The objectives for this area are:</i> <ul style="list-style-type: none"> <li>• <i>To provide predominantly for residential uses;</i></li> <li>• <i>Establish appropriate land use buffers to existing industry south of Rollinson Road;</i></li> <li>• <i>To maintain existing light industries in the Urban Development Area as appropriate;</i></li> <li>• <i>Plan access to and through the Urban Development Area with particular regard to road connections to the north at South Fremantle, possible requirements for rail crossings and public access to the beach and local pedestrian, cycle and parkway systems;</i></li> </ul> </li> <li>5. <i>The following uses are 'P' permitted uses:</i></li> </ol>



		<ul style="list-style-type: none"> <li>• <i>Aged or Dependent Persons Dwelling</i></li> <li>• <i>Grouped Dwelling</i></li> <li>• <i>Home Occupation</i></li> <li>• <i>Multiple Dwelling</i></li> <li>• <i>Single House</i></li> </ul> <p>6. <i>The following uses are 'AA' uses which are not permitted unless the Council has in its discretion granted Planning Consent:</i></p> <ul style="list-style-type: none"> <li>• <i>Civic Building</i></li> <li>• <i>Educational Establishment</i></li> <li>• <i>Health Studio</i></li> <li>• <i>Place of Public Worship</i></li> <li>• <i>Restaurant</i></li> <li>• <i>Office</i></li> <li>• <i>Advertisement or Sign</i></li> <li>• <i>Shop</i></li> <li>• <i>Shop with Dwelling or Flat above</i></li> <li>• <i>Showroom</i></li> <li>• <i>Consulting Rooms</i></li> <li>• <i>Medical Centre</i></li> <li>• <i>Garden Centre</i></li> <li>• <i>Nursery</i></li> <li>• <i>Motel</i></li> <li>• <i>Hotel</i></li> <li>• <i>Tavern</i></li> <li>• <i>Reception Centre</i></li> <li>• <i>Private Recreation</i></li> <li>• <i>Warehouse</i></li> </ul> <p>7. <i>The following uses are 'SA' uses which are not permitted unless the Council has in its discretion granted Planning Consent after notice of application has been given in accordance with Clause 6.2:</i></p> <ul style="list-style-type: none"> <li>• <i>Convenience Store</i></li> <li>• <i>Dry Cleaning Premises</i></li> <li>• <i>Industry – Cottage</i></li> <li>• <i>Industry – Light</i></li> <li>• <i>Industry – Service</i></li> </ul> <p><i>All other uses are 'X' - not permitted;</i></p> <p>8. <i>Residential development is to conform with the R60 Code except that higher densities may be permitted where nominated on the approved Structure Plan. The set back and open space provisions of the Codes may also be varied where 'Building and Access Guidelines (BAGs)' as defined in the 'Liveable Neighbourhoods – Community Design Code' (Western Australian Planning Commission, December 1997) are incorporated into the Structure Plan. As well as specifying lot set back and open space requirements, BAGs may also specify the means of access to residential sites and the general location and forms of buildings;</i></p> <p>9. <i>Non-residential uses within the Development Area should</i></p>
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		<i>conform with the set back standards applying to residential development in the locality except that Council may approve a nil set back to street alignments.</i>
(2) Advise the City of Fremantle of this decision.		

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

At its meeting held on 20 April 1999, Council resolved to initiate Amendment No.201 to District Zoning Scheme No.2 (see Min 12.4 OCM - 20/4/99 for previous report and decision).

The Amendment proposes the rezoning of land north of Rollinson Road, Hamilton Hill to facilitate the redevelopment of industrial zoned land to a medium-density residential estate with a mix of commercial and light industrial uses to interface with existing industrial development nearby. Proposal details are included in the Agenda Attachments.

The Amendment land forms part of the North Coogee Development Area (DA 12) as proposed by Amendment No.192. Council, at its meeting held on 12 October 1999, resolved to modify Amendment No.192 in accordance with requirements of the Western Australian Planning Commission.

Given that the Amendment No. 201 land is to be part of a Development Area and requires a Structure Plan to guide its development, the provisions to be introduced to the Scheme by Amendment No. 192 will apply. It is therefore necessary to ensure Amendment No.201 is consistent with the modified provisions of Amendment No. 192.

**Submission**

Amendment No. 201 is linked with MRS Amendment proposal 1008/33, which proposes the rezoning of the Amendment area from Industrial and Railway Reserve to the Urban zone. Part of land will also be reserved for Parks and Recreation.

The Department of Environmental Protection has assessed MRS Amendment 1008/33 and determined an Environmental Review is



required. The main environmental issues relate to concerns with railway noise, soil contamination and groundwater quality. The Department has also assessed Amendment No.201 and determined that the Amendment requires no formal assessment. However, advice has been given suggesting that Amendment No.201 should reflect the outcome of the MRS Environmental Review, and in particular, contain conditions to address the environmental concerns mentioned above.

Amendment No.201 is currently with the Ministry for Planning awaiting consent to advertise, however it, with the MRS proposal, are stalled pending the outcome of the Environmental Review. As a result there is an opportunity for Council, in anticipation of being directed to do so, to endorse modifications to Amendment 201 to reflect the recent changes to Amendment 192.

## **Report**

As a result of the modifications to Amendment No.192, Amendment No.201 should be amended in the following manner:

### *1. South Beach Redevelopment zone*

The principle of rezoning the Amendment land to its own special use zone has changed. Instead the land is to simply be included in the "Development" zone and will thus be subject to the Structure planning provisions to be introduced to Part 8 of the Scheme.

The "Development" zone is a new zone introduced by Amendment No.192. The advantage of having a broad single zone to apply to a land parcel is the flexibility it allows whilst the structure planning process takes place, in addition to giving statutory force and effect to the structure plan itself.

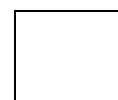
The "Development" zone only applies to portion of the North Coogee Development Area (DA 12).

### *2. Ninth Schedule Provisions*

The initial version of Amendment No.201 proposed the inclusion into Part 8 of the Scheme of provisions specific to the "South Beach Redevelopment" zone. The provisions were to detail land use permissibility, buffer requirements, access and others. These specific provisions should now be listed in the Ninth Schedule, rather than in Part 8.

### *Concluding remarks*

Given the advice of the DEP and the fact that the MRS Environmental Review is not complete, it is possible that additional changes to



Amendment No. 201 may yet result from the Review. The extent of possible changes and whether the Commission will require such change prior to advertising of Amendment No. 201 is not known. As a result, it is recommended that, rather than executing the above changes to the Amendment documents at this stage, a modified text be endorsed and forwarded to the Commission as part of its overall consideration of the MRS and local Scheme Amendment proposals.

**Strategic Plan/Policy Implications**

Council's Ultimate Strategic Plan promotes redevelopment of the Amendment land for urban purposes.

The modifications recommended to Amendment No.201 are consistent with the approach to other similar current Scheme Amendments concerning Development Areas and Structure Planning requirements.

**Budget/Financial Implications**

Nil

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

Nil

**337. (AG Item 14.1) (OCM1\_11\_1999) - LIST OF CREDITORS PAID (5605) (KL)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for October 1999, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

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



**Submission**

N/A

**Report**

N/A

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

N/A

338. (AG Item 14.2) (OCM1\_11\_1999) - ROAD CLOSURE - WRIGHT ROAD, MUNSTER (450109; 104876) (KJS)

**RECOMMENDATION**

That Council request the Department of Land Administration to close portion of Wright Road, Munster.

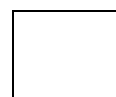
**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Landcorp has requested the closure of portion of Wright Road, Munster to facilitate the industrial subdivision of this and land owned by Landcorp adjoining the road.



**Submission**

Landcorp has formally written to Council requesting the closure.

**Report**

The Service Authority and Main Roads have been requested to comment on the proposal. There are no objections from these authorities. The proposal has been advertised and at the conclusion of the thirty-five(35) day period there have been no objections.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

N/A

**339. (AG Item 15.1) (OCM1\_11\_1999) - WASTE MINIMISATION STRATEGY (BKG) (4909)**

**RECOMMENDATION**

That Council adopt the following waste minimisation strategies to achieve a reduction in the volume of waste generated from residences in Cockburn being disposed of to landfill.

- (1) **Greenwaste Reduction**
  - Provide a kerbside greenwaste collection 3 times per year;
  - Transport greenwaste to Regional Council facility at Canning Vale for shredding and reuse.
  
- (2) **Recycling**
  - Provide an additional 240 litre mobile bin to each household to accept paper, plastic, glass, aluminium and steel cans;
  - Collect 240 litre bin on fortnightly basis and transport to Regional Council facility at Canning Vale for sorting and reuse.





- (3) **General Household Waste**
- Collect general household waste from 240 litre mobile rubbish bin on a weekly basis;
  - Transport general household waste to Regional Council site in Canning Vale for processing into compost.;
  - Provide a kerbside junk collection once per year and transport to Henderson Landfill site for processing.
- (4) **Landfill Site**
- Investigate other options of trailers unloading at tip face of the landfill site (no scavenging to occur at site until a decision is made on alternatives);
  - No more tip passes to be issued to ratepayers when the second recycling bin is supplied;
  - All greenwaste brought to the landfill to be stockpiled in a separate area, shredded and removed from site;
  - Entry fees to the site to be reviewed on an annual basis.
- (5) **Promotion and Education**
- Participate in the Regional Council promotion of recycling so as to obtain maximum benefit for the supply of the second bin;
  - Promote and sell compost bins.

### **COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council support its existing commitment to the Regional Resource Recovery Centre in adopting the following waste minimisation strategies to achieve a reduction in the volume of waste generated from residences in Cockburn being disposed to landfill:

- (1) **Greenwaste Reduction**
- Provide a kerbside greenwaste collection 3 times per year;
  - Transport greenwaste to Regional Council facility at Canning Vale for shredding and reuse.
- (2) **Recycling**
- Provide an additional 240 litre mobile bin to each household to accept paper, plastic, glass, aluminium and steel cans;
  - Collect 240 litre bin on fortnightly basis and transport to Regional Council facility at Canning Vale for sorting and reuse.
- (3) **General Household Waste**
- Collect general household waste from 240 litre mobile



rubbish bin on a weekly basis;

- Transport general household waste to Regional Council site in Canning Vale for processing into compost.;
- Provide a kerbside junk collection once per year and transport to Henderson Landfill site for processing.

(4) **Landfill Site**

- Investigate other options of trailers unloading at tip face of the landfill site (no scavenging to occur at site until a decision is made on alternatives);
- No more tip passes to be issued to ratepayers when the second recycling bin is supplied;
- All greenwaste brought to the landfill to be stockpiled in a separate area, shredded and removed from site;
- Entry fees to the site to be reviewed on an annual basis.

(5) **Promotion and Education**

- Participate in the Regional Council promotion of recycling so as to obtain maximum benefit for the supply of the second bin;
- Promote and sell compost bins.

(6) Council require the Director, Engineering and Works to provide Council with a Draft Implementation Schedule and associated cost impact for the Strategies; and

(7) the Director, Engineering and Works ensures that the Draft Implementation and Cost Schedule provides an allowance to promote changes to Council's waste minimisation strategy and to also educate the community on the importance of public support in minimising waste.

**CARRIED 3/0**

### **Explanation**

It was felt that that a Draft Implementation Schedule would assist Council in monitoring the new Waste Minimisation Strategy together with associated costs and the impact this would have in the Budget process.

With every major project, it would be appropriate to make allowances for any changes to be made to the Waste Minimisation Strategy if necessary during the course of its implementation.



## Background

At the Council meeting held on 13 July 1999 it was resolved that staff prepare a Waste Minimisation Strategy which addresses issues such as recycling, tip passes, fees etc. and this report be presented to Council within 3 months.

A report was presented to Council on 12 October 1999, but it was resolved that the matter be deferred to enable the Director - Engineering & Works to further review the issue.

## Submission

N/A

## Report

The community has identified recycling as one of the major issues they want Council to pursue.

In the most recent community survey (1998) it was considered the second most important issue to the residents.

A waste minimisation strategy has been developed to meet the requirement.

The corporate objective is:

*"Achieve a reduction in the volume of waste generated from residences in Cockburn being disposed of at landfill"*

The adopted performance measurement for the objective is *"80% of waste generated from residences within Cockburn will be diverted from landfill"*.

A waste minimisation strategy has been developed to achieve this objective.

In a typical household the waste stream in a 240 litre bin comprises:

(a)	foodstuffs	25% - 30%
(b)	paper, plastics, aluminium, steel and glass products	20% - 25%
(c)	greenwaste - ie. lawn clippings, leaves etc.	25%
(d)	non-recyclables - ceramics, some plastics etc.	20%



The strategy outlines the methods to reduce the waste under 4 headings.

- Greenwaste reduction
- Recycling
- General household waste including junk
- Landfill site

#### Greenwaste Reduction

It is proposed to continue the current policy of 3 greenwaste collections per year. Each resident is notified 2 weeks before a collection to put out tree loppings and leaves and lawn clippings. They can put out as much as they like. Council's contractors then collect the material and take it to a stockpile at Henderson Landfill Site. The material is mulched and taken away and used as a blender in soil mixes.

Before this service commenced, the material would be disposed of at the landfill site.

It is important to reuse greenwaste as it is a major source of nitrogen that can contaminate the ground water if left to decompose. The greenwaste will be taken to the Regional Council facility at Canning Vale when it is operational.

#### Recycling

As a member of the Southern Metropolitan Regional Council, Cockburn is committed to the construction of a Regional Resource Recovery Centre at Canning Vale. One component of the Centre is a material sorting facility to be able to sort commingled recyclables.

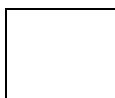
Each developed property in Cockburn is to be supplied with a 240 litre bin for the collection of recyclables. The recyclables are paper, glass bottles and jars, aluminium and steel cans and most plastic containers.

These bins will be collected from each property on a fortnightly basis and transported to Canning Vale where the contents will be sorted and sold.

Council's Principal Activities Plan currently shows this as occurring from 1 July 2001, however a report on the funding is currently being undertaken to see whether this can occur on 1 January 2001.

#### General Household Waste

Also at Canning Vale a household waste processing plant is to be constructed.



The contents of the 240 litre bin (mostly foodstuffs and small greenwaste) will be collected on a weekly basis and transported to Canning Vale.

The processing plant will turn the contents of this bin into compost which will be sold.

The 20% residual waste will be disposed of at landfill.

Some household junk is too big for disposal in 240 litre bins. Kerbside junk drives provide the opportunity to remove unwanted junk from properties. Some of the junk is re-useable and the opportunity exists with junk drives for this to happen.

### Landfill Site

The two important issues to assist in waste minimisation at the landfill site is to restrict the number of trailers bringing mixed waste and also to separate the greenwaste so it can be shredded and reused.

It is proposed that with the introduction of the additional 240 litre bins for recycling that tip passes no longer be issued.

The residents will have a much increased capacity in bins for disposal of waste from the property.

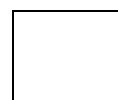
For the residents who still wish to use trailers to dispose of waste, alternatives will be investigated to the current method of unloading at the tip face at the landfill site.

A recent report shows that there are health and safety concerns with the current practice.

This also means that there can be no scavenging at the site until these investigations are completed.

The investigations will need to take the following into consideration:

- The effect of trailer numbers with the introduction of a second 240 litre bin
- The effect of trailer volumes if no vouchers are issued
- Effect of closure of Gosnells site in October 1999.
- City of Canning's response to the increased number of trailers to their site following Gosnells' landfill closure
- Decision by Canning to provide or not to provide a transfer station following closure of their landfill in 2001.
- Should Cockburn, Melville and Canning build a regional facility for acceptance of waste from trailers?



- Should a private enterprise company be encouraged to build and operate a waste transfer station?
- Where in Cockburn could a transfer station be constructed? Is Henderson the best option?
- Should the facility be constructed for mixed waste only?
- Should the facility be constructed for mixed waste and greenwaste?
- Should a recycling company be involved in the operation of the site?
- How is the project to be funded?
- How are users to be charged?

Halpern Glick Maunsell, who have been appointed as consultants, will assist in this analysis.

### Funding

The funding for the strategies outlined will be the subject of another report.

The availability of funds will determine the timing of the introduction of some of these strategies.

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

The corporate strategy for waste minimisation is *"Achieve a reduction in the volume of waste generated from residences in Cockburn being disposed of at landfill."*

### **Budget/Financial Implications**

There is a requirement for funding of:

- (a) supply of 24,000 recycling bins
- (b) costs for emptying and transporting the bins
- (c) the gate fee for the recyclables at the Regional Waste facility
- (d) the gate fee to accept the general household waste at the Regional Waste Facility
- (e) the repayments of the loan to build the Regional Waste Facility
- (f) the possible construction of a trailer waste transfer station.

It is expected that the implementation of the strategy will see an increase in rubbish rates of up to \$70.00 per annum per household as detailed in a report to Council in December 1998.



A report is to be prepared on how this funding will occur and also addressing alternatives that could reduce the anticipated increase of \$70.00.

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

It is intended that any new activities or project will go to tender to allow private companies the opportunity to provide the service.

#### **340. (AG Item ) (OCM1\_11\_1999) - NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Commissioner Donaldson advised that there was an item relating to Amendment No.217 - Proposed Inert Landfill (including old tyres) and Green Waste Recycling to be considered. This application was made by BSD Consultants for owners, Cockburn Cement.

#### **DECLARATION OF FINANCIAL INTEREST**

Comr Smithson declared a financial interest in Agenda Item 20.1. The nature of the interest being that her employer is BSD Consultants.

#### **CMR SMITHSON LEFT THE MEETING AT THIS STAGE THE TIME BEING 9.00 PM**

#### **341. (AG Item 20.1) (OCM1\_11\_1999) - AMENDMENT NO. 217 - PROPOSED INERT LANDFILL (INCLUDING OLD TYRES) AND GREEN WASTE RECYCLING - PORTION OF LOTS JAA 241 AND JAA 242 CNR RUSSELL AND MOYLAN ROADS, WATTLEUP - OWNER: COCKBURN CEMENT - APPLICANT: BSD CONSULTANTS (9217) (CC)**

#### **RECOMMENDATION**

That Council:

- (1) receive the report from BSD Consultants on behalf of Eclipse Resources in support of the proposed landfill site;
- (2) resolve to amend Town Planning Scheme - District Zoning Scheme No. 2 as follows:-

TOWN PLANNING AND DEVELOPMENT ACT, 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING - CITY OF COCKBURN DISTRICT ZONING SCHEME NO. 2

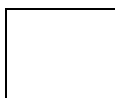


AMENDMENT NO. 217

Resolved that Council in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend the above town planning scheme by:

1. Adding an Additional Use "Landfill Site" to the Rural zoning of Portion of Pt Lot JAA 241 being part of the land comprised in Certificate of Title Volume 1722 Folio 869 and portion of Lot JAA 242 being part of the land comprised in Certificate of Title Volume 1157 Folio 182, located east of Moylan Road and south of Russell Road, Wattleup;
2. Amending the Scheme Text in the Second Schedule - Additional Use as follows:-

Street	Particulars of Land	Additional Use Permitted
Moylan Road, Wattleup	Portion of Pt Lot JAA 241 being part of the land comprised in Certificate of Title Volume 1722 Folio 869 and Pt Lot Portion of JAA 242 being part of the land comprised in Certificate of Title Volume 1157 Folio 182, located east of Moylan Road and south of Russell Road, Wattleup.	<p>The portion of lots, Pt Lot JAA 241 and Lot JAA 242 identified on the Scheme Map as Additional Use - "Landfill Site" is limited to the:-</p> <ul style="list-style-type: none"> <li>• disposal of inert fill such as limestone rubble, masonry, concrete, rough fill, builders rubble, building demolition material, topsoil and shredded tyres;</li> <li>• recycling of greenwaste;</li> </ul> <p>The Council will not allow on portion of lots, Pt Lot JAA 241 and Lot JAA 242 to be used for recycling manures composting, shredding of tyres or the disposal of whole tyres or any other waste material not described as inert fill.</p> <p>The landfill site shall operate in accordance with any EPA licences or approvals issued for the land, and shall be managed, filled and rehabilitated in accordance with the Council's planning consent and any approval issued by the WAPC.</p>





		<p>In granting development approval for the recycling of greenwaste, the Council shall limit the approval period for this use to a period not extending beyond the completion of the filling of the land.</p> <p>Upon cessation of the landfill site the Council shall initiate an amendment to the District Zoning Scheme to delete the Additional Use - "Landfill Site" from portion of lots, Pt Lot JAA 241 and Lot JAA 242 Moylan Road, Wattleup.</p>
<p>3. Amending the Scheme Map to show the Additional Use - "Landfill Site", over that portion of the rural zoned land described in the amendment to the Second Schedule - Additional Uses.</p> <p style="text-align: right;">Dated this .....day of .....1999 Chief Executive Officer</p> <p>(3) refer Amendment 217 to the Environmental Protection Authority for assessment under section 7 A(2) of Town Planning and Development Act;</p> <p>(4) following receipt of written advice from the Environmental Protection Authority that the Scheme Amendment is not required to be assessed under section 48A of the Environmental Protection Act, advertise the amendment in accordance with the provisions of Planning Bulletin No. 29, published by the Western Australian Planning Commission in December 1998; and</p> <p>(5) advise the applicant of the Council's decision.</p> <p><b>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</b></p>		

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that:

- (1) the report be received from BSD Consultants on behalf of Eclipse Resources in support of the proposed landfill site;



(2) Town Planning Scheme - District Zoning Scheme No. 2 be amended as follows:-

TOWN PLANNING AND DEVELOPMENT ACT, 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING - CITY OF COCKBURN DISTRICT ZONING SCHEME NO. 2

AMENDMENT NO. 217

Resolved that Council in pursuance of section 7 of the Town Planning and Development Act, 1928 (as amended) amend the above town planning scheme by:

1. Adding an Additional Use "Landfill Site" to the Rural zoning of Portion of Pt Lot JAA 241 being part of the land comprised in Certificate of Title Volume 1722 Folio 869 and portion of Lot JAA 242 being part of the land comprised in Certificate of Title Volume 1157 Folio 182, located east of Moylan Road and south of Russell Road, Wattleup;
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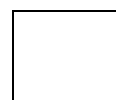


		<p>WAPC.</p> <p>In granting development approval for the recycling of greenwaste, the Council shall limit the approval period for this use to a period not extending beyond the completion of the filling of the land.</p> <p>Upon cessation of the landfill site the Council shall initiate an amendment to the District Zoning Scheme to delete the Additional Use - "Landfill Site" from portion of lots, Pt Lot JAA 241 and Lot JAA 242 Moylan Road, Wattleup.</p>
<p>3. Amending the Scheme Map to show the Additional Use - "Landfill Site", over that portion of the rural zoned land described in the amendment to the Second Schedule - Additional Uses.</p> <p style="text-align: right;">Dated this .....day of .....1999 Chief Executive Officer</p> <p>(3) refer Amendment 217 to the Environmental Protection Authority for assessment under section 7 A(2) of Town Planning and Development Act;</p> <p>(4) following receipt of written advice from the Environmental Protection Authority that the Scheme Amendment is not required to be assessed under section 48A of the Environmental Protection Act, advertise the amendment in accordance with the provisions of Planning Bulletin No. 29, published by the Western Australian Planning Commission in December 1998; and</p> <p>(5) advise the applicant of the Council's decision.</p> <p style="text-align: right;"><b><u>CARRIED 2/0</u></b></p>		

**Explanation**

The proponents met with the Commissioners, the Chief Executive Officer and the Director, Planning and Development to discuss the proposal and to give advice in relation to the burying of whole tyres and processes involved in composting for their consideration in relation to this particular item.

The proposal as presented by the proponents will be put to the Environmental Protection Authority for consideration, and the existing application would then be put for public comment which would enable



Council to consider any submissions from the public before making a final decision about this proposal.

In addition, the proponent together with his Consultant were able to justify the disposal of tyres in accordance with their current practices at other approved disposal sites and also to confirm that composting will take place as a matter of course resulting from the stockpiling of greenwaste as part of the recycling process.

**Background**

ZONING:	MRS:	RURAL
	DZS:	RURAL
LAND USE:	FORMER LIMESTONE QUARRY	
LOT SIZE:		
AREA:	N/A	
USE CLASS:	N/A	

The subject portion of Lot JAA 242 and JAA 241 is a former limestone quarry of Cockburn Cement located at the corner of Moylan and Russell Roads, Henderson. Extensive planting of tree seedlings has been undertaken adjacent to site boundaries recently.

The balance of the land west of Moylan Road is still an operational limestone quarry of Cockburn Cement.

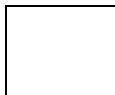
Much of the land in the locality has been identified in the WAPC's Basic Raw Materials Policy for the Perth Metropolitan Region as a limestone resource/extraction area.

Properties to the north and north east of the site are smaller rural lots (2-3 hectares) which have been developed with dwellings and small scale rural activities such as market gardens. The Lot at the corner of Russell and Holmes Road is occupied by a poultry farm. The subject site is within the buffer zone of the poultry farm.

The land to the east of the site is a Local Reserve-Council Use under TPS No. 2 but for the most part remains as natural bush land.

The site is also within the Environmental Protection Policy air quality buffer associated with the Kwinana Industrial and the Cockburn cement factory.

A development application was lodged with Council 21 September 1999 to use the land to dispose of inert land-fill (including old tyres) and for green waste recycling.



Although the proposal was advertised (notification of nearby landowners), it was later determined that the proposed use of 'inert land fill' was a prohibited use ('X' use) in the Rural zone, and that the proposed use of green waste recycling is classified a 'Industry General' which is also prohibited use in the Rural Zone.

The Planning Department refused the application by delegation on the 29 October 1999 for the following reasons:

- '1. *The proposed use of landfill is classified as Industry – Noxious in the City of Cockburn District Zoning Scheme No. 2 and is an 'X' use (a use not permitted) in the Rural Zone of the Scheme. Council has no jurisdiction to approve such uses.*
2. *The proposed use of green waste recycling is considered an Industry –General in the City of Cockburn District Zoning Scheme No. 2 and is an 'X' use (a use not permitted) in the Rural zone of the Scheme. Council has no jurisdiction to approve such uses.'*

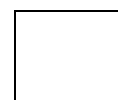
18 submissions were received from nearby landowners generally objecting on the following grounds:

- potential for ground-water contamination as objector is a user of the resource and no scheme water is available
- dust from the site contaminating land, rainwater and air
- noise from machinery and vehicles
- tyre dumping contaminating ground-water and catching fire
- chemical contamination
- proposed management of the site which is self regulatory in nature

The Environmental Protection Authority has resolved not to subject to the proposal to a formal Environmental Impact Assessment. Locals have appealed the Environmental Protection Authority's decision not to formally assess the proposal.

### **Submission**

BSD Consultants on behalf of Eclipse Resources have requested Council amend its Scheme to introduce an additional use over the subject portion of Lot JAA 242 and JAA 241 so that the land may be used for the disposal of inert land-fill (including used tyres) and green waste recycling. The following wording is proposed to be inserted into the Second Schedule of the Scheme under the heading Additional/Permitted Use:



'Inert Landfill and Green Waste Recycling operated in accordance with Environmental Protection Authority licensing requirements and subject to Council Planning Consent which may include conditions on, inter alia, operating hours and rehabilitation requirements'.

## Report

In respect to land fill proposals in general, the Scheme was amended in November 1997 to restrict the use of the Council's tip to waste disposal, and to classify all waste disposal as Industry-Noxious thereby requiring proponents to seek Amendment to the Scheme and in so doing allow Council a greater measure of control. This amendment proposal is the first and may therefore represent a referral point and set the standards for other land fill proposals in the City.

The amendment is considered to contain 3 main elements. First of these is the disposal of what may be termed 'traditional' dry inert land fill such as building site waste (masonry, concrete, bricks and pieces of glass and metal) and soils. The second of these elements is the disposal of whole tyres and the third is the recycling of green waste such as tree trunks and branches and its composting.

Former quarry sites are considered to be topographically suited to the use of inert land-fill as their low level relative to adjacent land has potential to limit off site impacts such as dust, noise, and negative visual impact. Land-fill also allows for the restitution of the land to its former land form.

Post excavation of the site has left a pit floor relatively level with Moylan Road, and a batter slope to the eastern boundary to higher ground. A drop in level to the pit floor is also present from Russell Road as the land begins to rise to the east. The site is not a typical 'whole in the ground' type quarry.

There are 4 residents on Russell Road within 40 to 70 metres of the subject site. The difference in level on the boundary to Russell Road may have potential to limit off site impacts to these residents in the early stages of development. Any potential operator would be required to implement appropriate dust suppression measures and comply with the relevant noise regulations.

In respect to the proposal to disposal of whole tyres, all Local Governments in the Metropolitan Region are classified under the Department of Environmental Protection's Used Tyre Regulations (1996) as TLEZ (Tyre Landfill Exclusion Zone).

The Regulations do provide for tyre burial in land fill sites in the TLEZ subject to the written approval of the Chief Executive Officer of the D E



P. Ultimately the environmental appropriateness for the disposal of tyres will be determined by the Chief Executive Officer of the D E P.

Submissions on the referral of the original proposal highlighted residents concern that used tyres would catch fire. Shredding of the tyres off site and mixing of the material with other non-flammable land fill material should greatly reduce the potential for fire.

In respect to the recycling of green waste, Council has already set a precedent in its adoption for advertising of Amendment 203, which is to be considered at this meeting for final adoption of Council.

Amendment 203 is to allow the recycling of green waste, limestone rubble, topsoil and rough fill on a portion of Lot 1 Rockingham Road, Henderson which is adjacent to the Council's tip site. In order to limit the potential for odour the recycling of manurers and the composting of the green waste is not allowed. Furthermore, the duration of the operation is limited by a 'sunset clause' to that of the Council tip.

Given the position of Council in respect to Amendment 203, it is considered appropriate that the same restrictive provisions be imposed in Amendment 217.

In accordance with the provisions of the Western Australian Planning Commission's Bulletin No. 29 the amendment may proceed directly to advertising where it is consistent with criteria of the Bulletin No. 29. It is considered proposed Amendment 217 meets the criteria and as such should proceed to advertising.

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

N/A

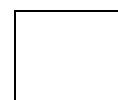
#### **Budget/Financial Implications**

N/A

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

Nil

**CMR SMITHSON RETURNED TO THE MEETING THE TIME BEING 9.09 PM**



**342. (AG Item 23.1) (OCM1\_11\_1999) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

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

**CARRIED 3/0**

MEETING CLOSED 9.13 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: ...../...../.....

