

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 17 FEBRUARY 2004 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 17 FEBRUARY 2004 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Ms A Tilbury	-	Councillor
Mr I Whitfield	-	Councillor
Mr A Edwards	-	Councillor
Mr K Allen	-	Councillor
Ms L Goncalves	-	Councillor
Mrs S Limbert	-	Councillor
Mr M Reeve-Fowkes	-	Councillor
Mrs V Oliver	-	Councillor

IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr S. Hiller	-	Director, Planning & Development
Mr J. Radaich	-	Acting Director, Engineering & Works
Mrs S. Ellis	-	Secretary to Chief Executive Officer

1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00pm.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil

3. DISCLAIMER (Read aloud by Presiding Member)

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written



advice from the Council prior to taking action on any matter that they may have before Council.

4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (by Presiding Member)

Nil

5. APOLOGIES AND LEAVE ABSENCE

Nil

6 (OCM 17/02/2004) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mr R Poole – Ordinary Council Meeting 20/1/04 – Public Question Time – asked how many vehicle infringements have been issued by the Rangers Section in relation to the sign which has been erected, stating that vehicles will be prosecuted.

Response dated 29 January 2004, advised that rangers are always being called out to off road vehicles and trail bikes causing a nuisance in this area. Rangers regularly patrol the area 7 days a week between the hours of 6am to 8pm (other priority work permitting), but it is recognised that it is extremely difficult to catch the culprits in the act. To date, approximately half a dozen infringements have been issued to offenders along with several cautions. Most of these have been issued in relation to traces done on the registration plates of the offending vehicles.

Mr B Spencer – Ordinary Council Meeting 20/1/04 – Public Question Time - asked a number of questions in relation to the emphasis placed on the development of new areas as compared to areas that have already been developed, with regard to infrastructure in general.

A response dated 28 January 2004 provided the following information:

Q *How much money is spent in relation to parks, drainage, roads and general infrastructure in relation to the suburb of Hamilton Hill during this financial year?*

A This year Council allocated funds to replace all concrete footpaths in Hamilton Hill with in-situ concrete. There is a total 15,462.50 square metres at an estimated cost of \$545,000 being spent on this project in Hamilton Hill this financial year.

The following new footpaths will also be constructed:



Location	Street	From	To
Hamilton Hill	Helen	Healy	Existing path
Hamilton Hill	Jean	York	Tuart
Hamilton Hill	Morton	Packham	Isted
Hamilton Hill	Ralston	Cutts	Curven
Hamilton Hill	Southwell Cres	Ely	Phoenix Rd
Hamilton Hill	Wheeler	Forrest	Forrest
Hamilton Hill	Wilkes	Redmond	Ingram

Roads

In the roads area, the following will be undertaken:

Hamilton Road – Rockingham Road to Spearwood Avenue Profiling and overlay	\$196,500
Arthur Road – upgrade drainage Stage 2	\$25,000
Rockingham Road – traffic treatment at Starling & Leda Streets	\$80,000

There are also funds made available for the asphalt resurfacing of a number of roads.

Parks

The following works will be carried out in the Parks budget:

Hamilton Road median – landscape median opposite 13a Hamilton Road	\$5,000
Manning Park – extend footpath around lake	\$30,000
Manning Park – disability access playground	\$110,000
Manning Park – replace fencing	\$40,000
Manning Park – lights	\$16,000
Manning Park – entry	\$7,000
Isted Park – replace bore and reticulation	\$31,000
<u>Environmental</u>	
Manning Lake surrounds	\$36,000
<u>Buildings</u>	
Davilak Changerooms – improvements	\$4,500
Manning Park toilets – floor and wall tiling	\$8,000
Goodchild Park – refurbish Changerooms	\$60,000

There is also recurring expenditure on the upkeep of the parks, roads and footpaths.

Q *What planning processes are in place in relation to infrastructure development in Hamilton Hill?*

A The major planning process in place for all infrastructure development in the municipality is contained in the Principal Activities Plan. As an



adjunct to this plan, staff also produce a 10 Year Plan to identify major projects that may be needed over a 10 year timeframe. This allows some financial planning to occur over that time and identify any potential cash flow difficulties.

The Principal Activities Plan adopted in July 2003 for the period 2003/04 – 2006/07 shows for the Hamilton Hill area, the following projects:

- Upgrade of Enwright Park Changerooms in Healy Road
- Upgrade of Memorial Hall at intersection Rockingham Rd & Carrington St
- Redevelopment of Southwell Community facilities

There is also an increased expenditure on parks maintenance to increase the standard of parks.

Q. *What are the recreational plans for infrastructure development, particularly relating to the suburbs of Hamilton Hill and surrounding suburbs?*

A The recreational needs of the community are identified initially by the community. The Council conducts a community needs study on a 4 year basis. The Council and staff use this information as a basis for the needs of the community.

The community is asked their opinion on such questions as how important and how satisfied are they with:

- The number of sport and recreation facilities in Cockburn (including swimming pools, ovals, tennis courts etc)
- The appearance and maintenance of sport and recreation facilities

Staff from the Community Services Division incorporating the recreation department then work at strategies to satisfy these expectations. There is also an ongoing consultation with sporting clubs and their needs.

An annual community satisfaction survey is also conducted to ascertain that demands are being met. These plans have resulted in maintaining:

- Davilak Oval and Enwright Reserve and Bakers Park to a high standard for active sport
- A number of parks including Manning Park for passive recreation
- The development of the C.Y. O'Connor Beach area for aquatic recreation
- The support of the Wally Hagan Stadium for organised sport in the form of basketball



7 (OCM 17/02/2004) - PUBLIC QUESTION TIME

Alan Davison (resident) for those who did not attend the rally at Coogee Beach last weekend, wanted to let Council know that there was a huge turnout in favour of the Port Coogee proposal.

Mel Fialho (Murdoch Chase Estate) on behalf of the residents of the Murdoch Chase Estate, asked Council to consider renaming their postal address from North Lake to Murdoch Chase on the following grounds:

- 1) Mail is being delivered much later as it has been going around other areas of North Lake instead of directly to Murdoch Chase, sometimes 2-3 weeks later.
- 2) The new redrawn State Election boundaries place Murdoch Chase Estate within the Murdoch constituency.
- 3) The geographical location, spread and distance proximity of the Estate is more in the confluences with Leeming and the City of Melville than it is with North Lake.
- 4) Real Estate companies consistently list properties for sale under Murdoch with a subtitle Murdoch Chase.
- 5) House and contents insurance has increased due to the high risks associated with the North Lake postal address. Resale value on their homes also depreciates due to this.

Mayor Lee suggested that Mr Fialho write to the Director, Community Services explaining their situation and the outcome they hope to achieve.

Andrew Sullivan, representing the Coogee Coastal Action Coalition (CCAC) firstly wanted to clarify that the CCAC is not a bunch of outsiders as has been stated by many people, with the committee of 14 people, 12 being residents of Cockburn. He wished to ask the following questions:

1. With regard to the rally on Sunday, he stated that it was attended by approximately 4,000 people. He asked if Council was aware that Australand are now claiming that the beaches at the Port Coogee site are in fact "*unsafe and polluted with dangerous contaminants*". He questioned if Council was aware of these claims and if it has any evidence that supports Australand's claims? If not, could Council do something to reassure the community that the beaches are safe.
2. With regard to the Australand sponsored Port Coogee Now Rally, he has received a letter from Council that Mr Lewis did not intend to hold a rally and yet it seemed that a separate rally did occur. He queried if Australand had the same permits etc that he was required to obtain or if they were dealt with differently.



3. He also asked Council what action will be taken with regards to a sign at the beach put up by Australand which has been there for about 4 days.
4. In regards to a sign that CCAC erected on the Coogee Beach Progress Association's sign was removed by Council and he questioned if that was the appropriate action given that they had permission from the Progress Association to put it on their sign.

Mayor Lee advised that the questions would be responded to in writing.

Robyn Scherr, (Coogee) there have been many times when people have asked Council to take action about the uncleared and privately held land which is a part of Australand's project and the answer has repeatedly been that because the land is subject to development, no cleanup is going to happen. Given that Australand is using photographs of that land in a manner she believed to be an attempt to frighten the public into believing that if we don't have Port Coogee, that's the rubbish we will be left with, she asked Council what action could be taken and if Council could ask Australand to refrain from using those photos for advertising given that this is being used as leverage by a stakeholder that intends to make financial gain from this.

Director Planning stated that Council has written to the owners of the land and the clean up will occur as part of the project. Demolition is taking place; it is just a matter of cleaning the sites. With regards to the photographs, it is their prerogative what they do with photographs of their land and Council can only deal with it as a statutory matter.

Mayor Lee intimated that Council could write to Australand and ask if they would consider not using the photos.

Joe Rotondella, (ratepayer) stated that the issue of his land has come up many times before. Council has, on a number of occasions, written to him and the land has been cleared and the buildings demolished to the satisfaction of Council and the regulations. However, the majority of rubbish now on the land, has been illegally dumped by other people including the rubble which is not from the site.

Heleo Cameron, (resident) stated that she was also at the rally and the Port Coogee supporters are passionate about the development. The people tired of waiting and tired of the smear campaigns therefore, she asked Council to make a decision on the Port Coogee issue tonight.

Mayor Lee responded that a commitment has been made that this issue will be dealt with at the March Council Meeting.



Joe Ferrera, (resident) was concerned at the proposal by CCAC that a larger marina will be better for the community. A good marina proposal would include a variety of residential, commercial and retail components and the Mandurah Ocean Marina is a good example of that.

Glen Diggins, (Coogee) felt that there was growing heat on the Port Coogee issue that will only get worse between now and the March Council Meeting. Not much more can be heard or learnt about the project in that time so he believed that in the interest of trying to avoid risk, that Council and the community would benefit if Council's views were made known as soon as possible and therefore, he asked if Council would hold a Special Meeting to deal with this issue as soon as the submissions are processed.

Mayor Lee reiterated his earlier statement that the matter will be dealt with at the March Council Meeting and not before that date.

Dan Scherr, (Coogee) stated that if it was possible for a major ratepayer in the City to be able to fence off a small sign from invaders, why is it so difficult to fence off people illegally dumping on his property.

Hugh Needham, (Coolbellup) asked the following questions:

Q. What is the percentage of the special rate above the normal rate charged to our ratepayers (in the proposed Port Coogee Development)?

A. Mayor Lee stated that this has not been decided.

Q. What rates will be charged in the proposed Port Coogee development area for Dwelling or Dwelling with a Boat Pen.

A. Director Finance stated that this has not been decided yet.

Q. Will this Council pass a by-law that all public access areas be protected in perpetuity as other Councils close these down ie: walkways which are closed later.

A. Mayor Lee responded that PAW's do get closed down from time to time. As far as POS is concerned, Director Planning advised that is provided for under the Act and protected by the way of subdivision conditions and if any changes are made it is by the State Government.

Q. The marina will have 263 public boat pens plus a public jetty plus a jetty to house a community tall ship. Will I be able to put my 12' dingy in there.



A. There will probably be a process to follow so as long as you follow the process and pay the fees, you should be able to do that.

Q. Who will get the fees?

A. That has not been decided yet as to who will manage it.

Ron Kimber, (Munster) commented that Cockburn certainly has a lot of diversity from industrial areas to “millionaires row” in Coogee. The various projects planned for the coastline are also varied and he felt that was the key and there was a lot of opportunities to make Cockburn even more diverse. He supports the Port Coogee project because it allows everyone to have something.

Zoe Inman, (Coogee) referred to Council’s Annual Report Page 27 regarding the Coogee Beach Structure Plan and asked if this was a totally new structure plan. She knows that there are some signs up for the café/kiosk but asked where was the community consultation for this new structure plan.

Director Planning responded that the structure plan brings together reports that have been done in the past and show basically the proposal along the coast between South Beach and the ship building area; in particular, the area in the Coogee precinct having regard for the existing proposals.

Ms Inman reiterated that Council is putting together this plan before putting it to the people.

Mayor Lee explained that Council needs to put some sort of plan together and then ask the community what it thinks of it..

Sue Grey-Smith, (Coolbellup) referred to page 97, Item 14.7 points 5 and 8 of the recommendation regarding the Koorilla site. She expressed concern that Council may advise the Education Department that it wishes to redevelop the Koorilla site in whole or in part and asked Council to carefully consider if this is the most appropriate recommendation for the site. She also queried if Council wishes to develop the site in total or in part.

Director Planning and Development advised that the recommendation to develop that site was the result of a series of Community Workshops and that if the site is approved for a commercial centre, it would be developed in part but should this not go ahead, it would be open to development in full.

Greg Patterson, (Coolbellup) stated that the Council Agenda was not available at the Coolbellup Library prior to the meeting and therefore asked if Council would delay voting on the issue until the community has seen the



report.

In regards to item 14.17, Mr Patterson quoted a portion of the "Guidelines of the Administration of Reserves" referring to the protection of reserves under Section 28 of the Town Planning Act and the requirements by law in making alterations to a reserve.

Mr Patterson referred to page 10 of the Annual Report under Parks and Services showing the targeted area of parks per head of population is 47m² with the current area being 30m² per head and asked that Council negotiate with the Education Department for 30% of public open space to be retained.

8. CONFIRMATION OF MINUTES

8.1 **(MINUTE NO 2296) (OCM 17/02/2004) - ORDINARY COUNCIL MEETING - 20/01/2004**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 20 January 2004, be accepted as a true and accurate record.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 10/0

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

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

Nil



13. COUNCIL MATTERS

13.1 (MINUTE NO 2297) (OCM 17/02/2004) - (DAPPS 19/11/2003) - PROPOSED AMENDMENT TO DELEGATED AUTHORITY ACS3 'APPROVAL TO CONDUCT CIRCUSES' (1054) (DMG) (ATTACH)

RECOMMENDATION

That Council amend instrument of Delegated Authority ACS3 "Approval to Conduct Circuses" as attached to the Agenda.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COMMITTEE RECOMMENDATION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr A Tilbury that Council:

- (1) revoke Delegated Authority ACS3 'Approval to Conduct Circuses'; and
- (2) require that any application to approve of a circus performing on Council land within the City to be referred to Council.

MOTION LOST 2/3

MOVED Deputy Mayor R Graham SECONDED Mayor S Lee that the recommendation be adopted.

CARRIED 3/2

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr A Tilbury that Council:

- (1) revoke Delegated Authority ACS3 'Approval to Conduct Circuses'; and
- (2) require that any application to approve of a circus performing on Council land be referred to Council.

MOTION LOST 4/6

MOVED Cllr K Allen SECONDED Cllr A Edwards that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 6/4



Background

This item was deferred from the December 2003 Council Meeting to be further considered at the January 2004 Meeting. It was deferred further from the January 2004 meeting to be reconsidered at this Meeting.

At the previous Committee Meeting and subsequently at the October 2003 Council Meeting, an amendment to Council Policy ACS3 "Approval to Conduct Circuses" was adopted. A copy of the newly adopted Policy is attached.

Submission

To adopt an instrument of Delegated Authority, the conditions of which relate to the amended Policy as adopted by Council.

Report

With the amendment to Council Policy ACS3 "Approval to Conduct Circuses", it has been identified that the related instrument of Delegated Authority is not consistent with the terms of the Policy and is therefore, incompatible and unable to be utilised.

To overcome this anomaly, it is proposed to amend the relevant Delegated Authority to reflect the intent of the Policy.

That is, to enable the authority to approve of circuses performing only on Council controlled land within the district and to align the "Conditions/Guidelines" associated with the delegation with those stipulated by Council Policy.

Currently, condition (2) of the delegation relates to compliance by circuses with National Circus Standards, as recommended by the Federal Government's National Consultative Committee for Animal Welfare, whereas Council's recently adopted Policy requires circuses to adhere to the recently proclaimed Western Australian Animal Welfare Act Code of Practice.

This anomaly requires correction to enable the delegation to be effective and it is suggested that a simple blanket clause in the delegation which directly relates to the Policy will overcome any confusion.

Should Council not agree to the amendment as proposed, then it should revoke the delegation, as it will not be able to be implemented owing to the incompatibility between the Policy and its delegation of authority, in which case any application to approve of circuses



performing in Cockburn would have to be referred to Council for deciding, as a matter of necessity.

Strategic Plan/Policy Implications

Key Result Area “Facilitating the Needs of Your Community” refers.

Budget/Financial Implications

N/A

Legal Implications

The relevant provisions of the Animal Welfare Act Code of Practice (2003) apply. Insurance/liability issues as contained in Council Policy ACS3.

Community Consultation

Council Policy has been the subject of extensive public consultation previously.

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

Nil.

13.2 (MINUTE NO 2298) (OCM 17/02/2004) - AMENDMENTS TO THE CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 2000 (1116) (LJCD) (ATTACH)

NOTE: THE PURPOSE AND EFFECT OF THE AMENDMENTS WAS READ ALOUD TO THE MEETING.

RECOMMENDATION

That Council amend the City of Cockburn (Local Government Act) Local Laws 2000, as per the attachment, pursuant to section 3.12 (2) of the Local Government Act 1995.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr L Goncalves that the recommendation be adopted.

CARRIED 10/0



Background

The City of Cockburn (Local Government Act) Local Laws 2000 were published in the *Government Gazette* on 9 October 2000 and came into force fourteen (14) days later as prescribed by the Local Government Act 1995. Notwithstanding this point, from time to time amendments have been promulgated to make the local laws more functional for the staff to carry out their duties.

Currently, part II Division 6 of the Local Laws (Animals) Section 2.27 relates to the keeping of sterilised miniature horses only in urban areas. The proposal is to remove the sterilisation requirement.

The current position in relation to firebreaks is that a Fire Control Order is published each year under the ambit of the Bush Fires Act 1954, in the format of a pamphlet stipulating the requirements regarding the provision of firebreaks on property and the pamphlet is distributed with the rates notice annually. This procedure is undertaken to ensure that the ratepayers are made aware of their obligations and such a practice has been in place for some years. Furthermore, the Fire Control Order is published in *The West Australian* and two local newspapers as well as the *Government Gazette*. Hence, the residents are made fully aware, given the media coverage, of what is required of them regarding the construction of firebreaks. It is considered that every effort is made to educate the ratepayers regarding the issues surrounding fire management on their property.

When properties are inspected and there is a breach of the Fire Control Order, the rates database is checked to ascertain if the property was cited previously for a breach of the Fire Control Order. If there was no previous breach, the owner of the property is forwarded a letter advising that the firebreak should be installed within fourteen (14) days and that the property will be re-inspected to ascertain if the firebreak has been constructed. (There is no requirement by law to send a warning letter to the property owners. This practice has been in place for quite some time). If after that period, the firebreak is not installed, an infringement notice is issued and a contractor is engaged to construct the firebreak at the owner's expense. If a property owner has been previously noted for breaching a Fire Control Order, no initial warning letter is sent. The property is re-inspected after fourteen (14) days and if the firebreak has not been constructed, an infringement is immediately issued and a contractor is engaged to construct the firebreak at the owner's expense.

The provisions currently contained in Part VIII (Sec 8.26) relating to Signs are at variance with Australian Standards. Therefore, a minor amendment is proposed to correct this anomaly.



Submission

N/A

Report

Council adopted amendments to the Local Laws on 18 November 2003. The amendments were published in the *Government Gazette* on 25 November 2003, and minor drafting errors were found in the text of the amendments and therefore, the first part of this draft amendment deals with a Corrigendum. That is, a statement to correct the errors previously published.

Section 2.27 of Part II – Animals in part reads '*An owner or occupier of premises may keep a sterilised miniature horse on land of not less than 1000m²*'. An application under section 2.27 was received by the Environmental Health Services section to keep an unsterilised miniature horse on land of not less than 1000m². The application could not be dealt with as the local law made specific reference to 'a sterilised miniature horse'. The section has been rewritten removing all reference to 'a sterilised miniature horse' and therefore, the section becomes more practical allowing a miniature horse to be kept on land of not less than 1000m² in area.

The amending draft to the local laws goes on to outline changes to the local laws. For example, a new Part is to be introduced into the City of Cockburn (Local Government Act) Local Laws 2000, entitled 'Part IIA - Firebreaks and Related Matters.' In the past, matters relating to firebreaks have been administered by virtue of a Fire Control Order and managed by Officers within the Safer City Section of Council's Administration. These officers are being re-assigned to other duties and hence the responsibility for bush fire matters will revert back to Rangers. The draft local law presented to Council has been drafted to eliminate the need to publish the Fire Control Order in the future.

The purpose and effect of the amending draft is to eliminate the need to construct a firebreak 2 metres in width around the boundaries of land that is 2032m² or less in area. In the past, firebreaks constructed to the prescribed standard in the residential area have been a source of complaints due to the pollution caused by the dust blowing around. The amending draft will dispense with the complaints regarding pollution problems caused by dust. This will be achieved by requiring owners or occupiers of land 2032m² or less in area to slash or mow the land clear of all flammable matter to a height of no more than 50 millimetres and the land is to be maintained in this state from October to May each year. In addition, it is expected that the number of complaints received in built up areas from neighbours of vacant land in relation to smoke nuisance will also decrease dramatically. Also, such will eliminate the need to implement measures under section 3.25 of



the Local Government Act 1995, requesting landowners to remove all overgrown vegetation from vacant land.

The requirements for land that is greater than 2032m² in area remains the same. That is, a 3 metre wide firebreak is to be constructed immediately inside all external boundaries of the property, immediately surrounding all buildings situated on the land and all fuel dumps and ramps on the land.

Landowners can make application to construct a firebreak in an alternative position if it is not practical to construct the firebreak as aforementioned and if the application is granted, such remains in force until the ownership of the land changes.

In an endeavour to control smoke pollution, it will be unlawful for a person on any land that is 2032m² or less in area to set fire to or cause to be set on fire, any rubbish, refuse or other material. For land that is greater than 2032m² in area, there are specific requirements for setting fire to rubbish, refuse or other material.

The purpose of amending the heading of section 8.26 is to bring it in line with the Australian Standard on signs and the variation to the dimensions of a sign permitted is to allow for the increase in the number of letters on the sign.

Strategic Plan/Policy Implications

Key Result Area "Maintaining Your Community Facilities" refers.

Budget/Financial Implications

N/A

Legal Implications

Bush Fires Act 1954, and Section 3.12 of the Local Government Act 1995, refers.

Community Consultation

The public will be informed by an advertisement placed in *The West Australian* advising that Council is proposing to amend its Local Laws and members of the public will be invited to present a submission in relation to the amendments.

Fire and Emergency Services Authority (FESA) has been provided with a copy of the proposal and supports the suggested amendments.



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

Nil.

13.3 (MINUTE NO 2299) (OCM 17/02/2004) - MOTION - ANNUAL ELECTORS MEETING 3 FEBRUARY 2004 - PROPOSED CONSTRUCTION OF SCHOOL, LEN PACKHAM RESERVE, COOLBELLUP (1713) (DMG)

RECOMMENDATION

That Council:

- (1) not support the proposal for 30% of the net area of the primary schools in Coolbellup being provided for public open space as part of the rationalisation of the primary school sites; and
- (2) support the provision of public open space in Coolbellup in accordance with the outcomes of the Enquiry-by-Design Workshop which was to provide 12.6% public open space in addition to the replacement of any existing open space that may be lost as part of the rationalisation of the primary school provision serving the area.

COUNCIL DECISION

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

CARRIED 9/1

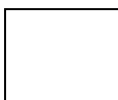
Background

At the Annual Electors Meeting conducted on 3 February 2004, the following motion was carried:

“That if a school is built on Len Packham Reserve, that Council ask the Education Department for a nett 30% public open space on the 3 school sites after the parkland is accounted for”.

Council is required to formally consider all motions carried by a Meeting of Electors.

The matter of 30% public open space(POS) has been raised in community meetings and submissions on Town Planning Scheme No. 3 – Amendment No. 10, however neither the submissions nor the motion substantiate or justify the need for the 30% POS. Council has



specified that any POS taken on Len Packham Reserve should be replaced (ie. there is to be no net loss of POS in Coolbellup). This issue has been agreed to and therefore the real concern to be addressed in this report is how much POS is to be provided as part of the subdivision of the school sites.

The matter of POS has also been addressed as part of the report to be considered by Council on Town Planning Scheme No. 3 – Amendment No. 10 (Item 14.17).

Submission

To consider this motion at the February 2004 Ordinary Meeting of Council.

Report

Under normal circumstances, this item would have been referred to the March 2004 Council meeting for consideration, owing to closure deadlines for the February 2004 meeting. However, given that this resolution relates to an item already being considered by Council at the February 2004 Council Meeting, the Acting Chief Executive Officer has granted permission for the item to be included as part of this agenda.

Since 1956, the Western Australian Planning Commission (WAPC) and its predecessors have required subdividers to cede 10% of the gross subdivisible area of new residential subdivisions free of cost to the Crown, as recreation reserves.

The 10% requirement is derived from the recommendations contained in the Stephenson-Hepburn Plan. That report states that for most areas, a standard of 3.36ha per 1,000 population (excluding school playing fields) is recommended as sufficient public open space.

Liveable Neighbourhoods – Community Codes provides a concession for a reduction of the 10% requirement to 8%. This concession is granted if the Western Australian Planning Commission is satisfied that the Liveable Neighbourhoods concepts are applied.

WAPC DC Policy 2.3 – Public Open Space in Residential Areas provides guidance on POS in residential areas. This document is used by both the WAPC and Council to ensure that the provision of POS allows for a reasonable distribution of land for active and passive recreation in each locality.

There is currently 25.1ha of POS in Coolbellup. The required 10% POS for Coolbellup is 25.2ha. Therefore, Coolbellup complies with the standard provision.



Applying the Stephenson-Hepburn standards of 3.36ha per 1,000 population, the 2001 census population for Coolbellup was 4,847, meaning that only 16.2ha of POS would be required. Allowing for an increase in population to 5,500 would increase the POS to 18.4ha which is still considerably less than current POS provided in Coolbellup of 25.1ha.

The Enquiry-by-Design Workshop examined the amount of POS to be provided on the school sites in detail. Table 1 shows the school site areas, proposed POS and overall total area of POS to be given up if development occurs in accordance with the plans prepared at the Workshop.

Table 1 – Enquiry-by-Design Public Open Space figures

School site	Site Area	Normal 10% POS	Proposed POS – as per Workshop plans	% POS of site
Coolbellup	4.6741ha	0.4674 ha	1.2530ha	26.8%
North Lake	4.1632ha	0.4163 ha	2.3960ha (excludes the drainage area on the corner of Capulet St and Montague Way)	57.5%
Koorilla	4.2264ha	0.4226 ha	Nil	0%
Total	13.0637ha	1.3063 ha	3.6496ha *	27.9% *

NOTE: (includes 2ha for Len Packham Reserve)

Plans prepared at the workshop for the development of the three school sites for residential purposes includes 3.6496 ha for public open space. This represents the following;

Replacement POS – Len Packham Reserve 2.00 ha
 POS in respect to the school site development 1.6496 ha (12.6%)

The areas of POS shown on the plans developed at the Workshop was based on an assessment of what would be protected and required having regard to existing POS distribution in Coolbellup. The figures in Table 1 show that there will be no net loss of public open space in Coolbellup with the area of Len Packham Reserve being taken for the primary school.

The motion put forward at the Annual Electors Meeting is of the view that notwithstanding the replacement POS, the provision of open space within the school sites should be in excess of the normal 10% POS requirement. The Enquiry-by-Design plans show the amount of POS being provided is 12.6%.

The Department for Education and Training has advised that it is prepared to provide the 12.6% POS as shown on the plans prepared during the Workshop. However, in the event that the school does not



go on Len Packham Reserve, the amount of POS to be provided will be reviewed as that shown on Coolbellup and North Lake is approximately 41.3% of those sites and is considered excessive, based on current practice.

The 30% POS requirement put forward at the Electors Meeting was not justified. As the figures show in Table 1, 26.8% will be provided on the Coolbellup site and 57.5% on the North Lake site. The only site that POS will not be provided is Koorilla. Table 2 shows the effect of the 30% POS requested at the Annual Electors Meeting. If 30% was applied to each site, it is presumed that the Department for Education would reduce the area of POS on North Lake, increase the area on Coolbellup and place an area of approximately 1.2ha (equivalent to 30%) on the Koorilla site. This would increase the POS shown in the Workshop plans by 2.2695ha (which is an additional 17.4%). This does not take into account the 2ha consumed on Len Packham Reserve by the school buildings which have already been agreed to be replaced within Coolbellup.

Table 2 – 30% Public Open Space request figures

School site	Site Area	Requested 30% POS
Coolbellup	4.6741ha	1.4022ha
North Lake	4.1632ha	1.2489ha
Koorilla	4.2264ha	1.2679ha
Total	13.0637ha	3.9191ha

The increasing of POS to 30% on each school site is not supported for the following reasons:

- No justification has been provided for the 30% figure.
- The plans developed at the Workshop took into consideration those areas believed to be of significance to the community as far as landscape amenity is concerned and provide protection for the more prominent vegetation on the school sites. The reduction of POS on the North Lake school site in particular, is likely to see the removal of some of the vegetation that the community value. Some of the submissions lodged regarding Amendment No. 10 raised concerns about the loss of vegetation on the Koorilla site. Council would be prepared to negotiate with the Department of Education to retain as much of this vegetation as practicable during the design of the new development on the site.
- If the redevelopment of the town centre is pursued on the Koorilla site, there will be no opportunity to provide appropriate POS on this site.



- Len Packham Reserve is currently under-utilised as an active reserve. The provision of further active and passive recreation areas on the school sites is not warranted.
- The Koorilla site has Len Packham Reserve and Tempest Park adjacent to the site and therefore, there is no need for additional POS on this site.
- Given the current POS distribution and proposed additional POS in Coolbellup, an increase to 30% on each school site is unlikely to make any significant difference to the amenity of the area.
- The plans developed at the Workshop provide a more even distribution of POS within Coolbellup.

In summary, under the current proposals prepared at the Workshop and in accordance with Council's previous determination, there will be a slight increase in land reserved for 'Parks and Recreation' in Coolbellup as a result of the proposed primary school being located on Len Packham Reserve and the development of the school sites will result in additional open space being provided in satisfaction of the subdivision requirements. No justification has been provided for the increase to 30% POS and there is no reason the Council should support the proposal.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *To deliver services and to manage resources in a way that is cost competitive without compromising quality.*
 - *To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.*
2. Planning Your City
 - *To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens.*
 - *To ensure that the development will enhance the levels of amenity currently enjoyed by the community.*
 - *To foster a sense of community within the district generally and neighbourhoods in particular.*
3. Conserving and Improving Your Environment
 - To conserve the quality, extent and uniqueness of the natural environment that exists within the district.



- To conserve the character and historic value of the human and built environment.
 - To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.
- 4. Facilitating the Needs of Your Community
 - *To facilitate and provide an optimum range of community services.*
 - *To identify current community needs, aspirations, expectations and priorities of the services provided by the Council.*
 - *To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community.*
- 5. Maintaining Your Community Facilities
 - *To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use.*
 - *To construct and maintain community buildings which are owned or managed by the Council.*

The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD2	Community Facilities Infrastructure – 10 Year Forward Plan
SPD4	'Liveable Neighbourhoods'
APD4	Public Open Space
APD5	Public Works and Development by Public Authorities

Budget/Financial Implications

Council's Principal Activities Plan currently provides for a Council contribution of \$400,000 towards the project with a commitment of a further \$350,000 from Department of Housing/Finis Group towards upgrading of community facilities. A further \$180,000 for landscaping within the central town centre precinct is also available.

Based on Council's standard \$15,000 per hectare annual maintenance costs, an additional 2.27ha will result in increased maintenance costs of \$34,050 pa. In terms of 2003/2004 general rate revenue of \$18.3 million, this would represent a possible increase of 0.2% in rates over the municipality.

Legal Implications

Nil



Community Consultation

Extensive community consultation has been carried for this project. See background section of this report for details on community consultation. 86 submissions were received during the advertising period with 41 late submissions being received well after the due date.

A petition signed by approximately 350 persons objecting to the location of the proposed primary school was presented to Council in April 2003. Further copies of the petition containing an additional 111 signatures was received on 17 December 2003.

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

Nil.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 **(MINUTE NO 2300)** (OCM 17/02/2004) - CLOSURE OF PORTION OF BARTRAM ROAD PURSUANT TO SECTION 58 OF THE LAND ADMINISTRATION ACT (450052) (KJS) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report; and
- (2) request the Minister for Planning and Infrastructure to close portion of Bartram Road, Success.

COUNCIL DECISION

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

CARRIED 9/1

Background

Council at its meeting held on 19 November 2002, resolved to:-

- “(1) request that the Department of Land Administration reconstitute that portion of Bartram Road, as shown in the Agenda attachments, as a reserve for community purposes with power to lease; and*



- (2) *offer to Gold Estates Pty Ltd a 6 year lease on portion of the land in (1) above for the purpose of Entry Statement structure for 6 years at \$1,000 pa, subject to the statutory requirements of section 3.58 of the Local Government Act 1995."*

Submission

N/A

Report

The Department for Planning and Infrastructure have prepared a Deposited Plan for the triangular land parcel with an easement in favour of the Water Corporation, protecting a sewer line traversing the site. The road closure was advertised and at the conclusion of the period for the receipt of objections, no responses were received.

Once the road closure has been formalised by the Department for Planning and Infrastructure, the vesting of the land as reserve for community purposes can be progressed.

The land to be closed is located on the south-eastern corner of the intersection of Wentworth Parade and Bartram Road. The area of the land is 0.3742ha.

The land is a Crown Reserve and has been reserved for community purposes to enable the Council to consider a range of possible community uses for the land in the future.

At the expiration of the lease period, the Council will decide the future of the Entry Statement, should it still be existing at the end of the six(6) year term.

Gold Estates have now completed their Entry Statement structure on the land. The Entry Statement is for the residential development, Magnolia Gardens. Once the reserve for community purposes has been created, the lease agreement with Gold Estates for that part of the land taken up by the Entry Statement structure can be completed.

Strategic Plan/Policy Implications

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

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



Budget/Financial Implications

N/A

Legal Implications

Nil.

Community Consultation

The road closure was advertised and at the conclusion of the period for the receipt of objections, no responses were received.

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

Nil.

14.2 (MINUTE NO 2301) (OCM 17/02/2004) - COMMENTS ON THE PROPOSED MASTER PLAN REPORT AND MASTER PLAN FOR THE HOPE VALLEY-WATTLEUP REDEVELOPMENT AREA PREPARED BY THE WESTERN AUSTRALIAN LAND AUTHORITY (LANDCORP) (9332) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) lodge a submission based on the comments and observations contained in the report; and
- (3) advise the Western Australian Planning Commission that:-
 1. The public submission period was far too short to enable proper consideration of the proposed Master Plan.
 2. It was not properly consulted by LandCorp during the preparation of the Master Plan prior to the plan being submitted to the Commission, as provided for under section 12(3) of the Hope Valley-Wattleup Redevelopment Act 2000.
 3. It continues to strongly oppose the FRIARS Report and recommendations on which the Hope Valley-Wattleup Redevelopment Area Proposed Master Plan is based, in accordance with its decisions of 22 June 1999, 18 April and 20 June 2000, which have already been conveyed to the Commission.



4. The approval and development of the proposed outer harbour port facilities on Cockburn Sound be accelerated in order that they be operational as soon as possible.
5. A context analysis be undertaken to better relate the planning and development of the Redevelopment Area with its surroundings, particularly in respect to Kwinana Industrial Area, the Australian Marine Complex, the Marine Industry Technology Park, the Alcoa Mud Lakes, the Southern Suburbs Structure Plan, Banjup, the future port and the regional road system.
6. A detailed traffic study be undertaken to determine the access needs of the Redevelopment Area and the opportunities for integrating different modes of transportation planned to serve the area.
7. An assessment of the quality of the wetlands existing in the Redevelopment Area should be undertaken to provide a benchmark to ensure that the integrity, ecological function and environmental values of the wetlands are maintained following development.
8. The identification and protection of remnant vegetation within the Redevelopment Area needs to be re-assessed to ensure representative areas of Heath and Jarrah Woodland is retained.
9. A review of the proposed Greenbelts and ecological linkages needs to be undertaken to ensure that they follow appropriate and sustainable alignments that can be incorporated into the structure planning of the various Precincts.
10. A fauna study be undertaken to determine the abundance of species residing in the area, together with their habitats so that the fauna pathways can be used to review the proposed Greenbelts and ecological linkages proposed for the Redevelopment Area.
11. The identification of environmental principles and measures that address the potential impact of industrial development on the Cockburn Sound Catchment.
12. The planning of the Outer Harbour should be undertaken as an integral part of the Master Plan and subsequent structure planning of the Hope Valley-Wattleup Redevelopment Area project.



COUNCIL DECISION

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

CARRIED 9/1

Background

March 1997 - Ministry for Planning released the Fremantle-Rockingham Industrial Area Regional Strategy (FRIARS) Discussion Paper, prepared by ERM Mitchell McCotter for public comment. In May 1997, Council considered a submission prepared by Council officers which expressed concerns about the approach adopted by FRIARS.

March 1999 - Council was invited to attend a briefing on the FRIARS Report, which was held for the Councillors and CEO's of the City of Cockburn and Town of Kwinana.

22 June 1999 - Council adopted a comprehensive officers' report (97 pages) as its submission of the FRIARS proposal opposing the approach being pursued and requested the Commission to conduct hearings in respect to the public submissions lodged on the FRIARS Report.

18 June 1999 - State Government gazetted Improvement Plan No. 31 for the Wattleup and Hope Valley Townsites without reference to the affected local governments. The Council, at its meeting held on 27 July, resolved to advise the Commission of its concern that this had occurred, particularly given that the gazettal was prior to the close of the public submission period on the FRIARS Report.

21 December 1999 - Council resolved to request the Commission to defer any decisions on FRIARS until a decision had been made on the proposed Agricultural and Rural Land Use Planning Policy (SPP No.11), as the policy applied to the FRIARS area.

6 April 2000 - Hope Valley-Wattleup Redevelopment Bill was presented to Parliament.

18 April 2000 - Council resolved to advise the Commission of its "strong opposition to the outcome of the FRIARS Report" and to reiterate its "preference for a Development Authority to implement the FRIARS recommendation" subject to certain qualifications.

16 May 2000 - Council became aware that the Bill was proposing to remove its planning powers within the Redevelopment Area and sought legal advice.



20 June 2000 - Council once again advised the Commission that it did not support the Preferred Land Use Strategy for FRIARS or the proposed Hope Valley-Wattleup Redevelopment Bill.

18 July 2000 - the City submitted comments on the proposed Bill for the Commission's consideration.

29 December 2000 - Hope Valley-Wattleup Redevelopment Act was gazetted and the City's District Zoning Scheme no longer applied to the area, together with the MRS.

14 March 2001 - City wrote to the Minister for Planning and Infrastructure, reiterating Council's strong opposition to the proposed strategy and reconfirmed its preference for the establishment of a Development Authority to implement the strategy should the proposals for the Redevelopment Area proceed.

13 September 2001 - Mayor Lee and Cllr Oliver were recommended to LandCorp as Council's representatives on the Community Reference Group.

13 September 2001 - the City was advised that APP Agents had been appointed as the project consultants and would be facilitating workshops with the various stakeholders.

22 August 2002 - the City received a copy of the "Review of Kwinana Air-Quality Buffer" on which public submissions closed on 27 September 2002. On 19 September, the City lodged a submission on the buffer review.

17 October 2002 - the City provided informal comments on a Draft Structure Plan dated September 2002. It contained a list of 22 points for consideration by the project consultants. The comments were not formally invited.

14 November 2002 - senior staff from the City attended a meeting with the Town of Kwinana, DPI and LandCorp to discuss the proposed text for the Master Plan.

25 November 2002 - the City wrote to the DPI advising of potential traffic and transportation issues related to the Australian Marine Complex and the Hope Valley-Wattleup Redevelopment Area.

22 May 2003 - the City advised LandCorp of its concerns about the limited opportunity for adequate transportation links to serve the Redevelopment Area.



28 May 2003 - the City received a draft copy of the Redevelopment Area "Social Transition Strategy" dated 17 April 2003 and comments were provided on 23 July.

23 July 2003 - the HVWR Project Officer was advised that the City had concern that it had not been properly consulted under Section 12(3) of the Act.

26 August 2003 - the City provided a copy of its concerns about the transportation links to DPI.

3 October 2003 - the City wrote to LandCorp about its concerns that it had not been properly consulted under Section 12(3) of the Act and conveyed this view to the DPI on 21 October.

4 November 2003 - a copy of the City's concerns about transport links into the HVWR Area were provided to Main Roads WA.

5 December 2003 - LandCorp launched the HVWR Area Master Plan to a range of government and community stakeholders at the City of Cockburn.

Since the instigation of the FRIARS project the Council has been involved as a relevant stakeholder, with some elected members and senior staff attending workshops, presentations and committee meetings. However, at no time has the Council been given the opportunity to formulate a collective position on the proposed Master Plan as required under Section 12(3) of the Act.

Submission

On 13 December 2003, the "Proposed Hope Valley-Wattleup Redevelopment Project Master Plan" was advertised for public comment. The advertising period is to close on 4 March 2004.

To achieve the closing date, it is necessary for the proposal to be considered by Council at its February 2004 meeting, where the agenda closed on 30 January, which only allowed 30 working days to assess this very large and complex proposal.

Report

The Master Plan is divided into 3 documents namely:-

1. Hope Valley-Wattleup Redevelopment Project – the proposed Master Plan Report. This document comprises 140 pages, 7 Figures and 4 Appendices.



2. Hope Valley-Wattleup Redevelopment Project – Environmental Review (EPA Assessment Number 1470). This document comprises 242 pages, 30 Figures and 5 Appendices.
3. Hope Valley-Wattleup Redevelopment Project – Proposed Master Plan. This document comprises 108 pages.

Each document is discussed in turn.

The approach to the consideration of the documents will be to assess those aspects that directly relate or refer to the City of Cockburn and to strategic and technical matters relevant to the project, given the fact that State Government is legally bound to prepare and implement a Master Plan for the Redevelopment Area as required under the Hope Valley-Wattleup Redevelopment Act 2000 and Regulations.

1. Hope Valley-Wattleup Redevelopment Project – the Proposed Master Plan Report.

A report is attached to the Agenda.

2. Hope Valley-Wattleup Redevelopment Project – Environmental Review (EPA Assessment No. 1470)

A report is attached to the Agenda.

3. Hope Valley-Wattleup Redevelopment Project – Proposed Master Plan.

A report is attached to the Agenda.

The attachments to the report should be the basis of the Council submission.

It is pointed out that the Council's Town Planning Scheme No. 3 does not apply to the Hope Valley-Wattleup Redevelopment Area. The Council's role is limited to acting as a "post box" to forward planning applications to the Commission for determination.

Although it is understood that some time in the future, the town planning responsibilities could be returned to the City, this could be many years away.

Strategic Plan/Policy Implications

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



1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*

Budget/Financial Implications

The Council has no statutory planning function within the Redevelopment Area.

All fees submitted with planning applications are forwarded to the Commission as required under section 26 of the Redevelopment Act. Given this, the City's resources are limited to receiving, recording and forwarding all planning applications to the Commission without recommendation.

Legal Implications

Nil. The Council has no statutory planning role within the Redevelopment Area, except for the enforcement of planning approvals issued prior to the gazettal of the Act in December 2000.

Community Consultation

The Commission advertised the Master Plan and supporting report for public comment, between 13 December 2003 and 4 March 2004, as required under section 13 of the Redevelopment Act.

Of interest is that section 12(3) of the Redevelopment Act states:

- "(3) *A proposed master plan is not to be submitted to the Commission unless sections 18 and 19 have been complied with in respect of that master plan and it was prepared –*
- (a) *after consultation with the City of Cockburn and the Town of Kwinana (whether that consultation occurred before or after the commencement of this Act); and*
 - (b) *having regard to the views of those local governments."*

The proposed Master Plan was submitted to the Commission without consultation with the City of Cockburn. The local government has never been in a position to formulate its views on the proposed master plan, prior to the advertising of the plan under section 13 of the Redevelopment Act.

Given this it appears that section 12(3) of the Act has not been complied with.



LandCorp does not agree with the opinion of the City and is firmly of the view that the City of Cockburn has been consulted as required under the Act.

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

Nil.

14.3 (MINUTE NO 2302) (OCM 17/02/2004) - GROUPED (R-CODE) DWELLING - RETROSPECTIVE APPROVAL OF 2 PATIOS - LOT 226 (32A & 32B) STRELITZ VIEW, BEELIAR - OWNER/APPLICANT: E MCKINLAY, Y MCKINLAY, N PAY & G MCKINLAY (3317892) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant retrospective approval to two (2) existing patio's on Lot 226 (No. 32A & 32B) Strelitz View, Beeliar, subject to the following conditions:

STANDARD CONDITIONS

1. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval; and
- (3) advise the owner that because the patios have been constructed, the Council is unable to issue a building licence retrospectively.

COUNCIL DECISION

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

CARRIED 9/1



Background

ZONING:	MRS:	Urban
	TPS3:	Development Zone (DA4) (DCA4)
STRUCTURE PLAN:	Residential R20	
LAND USE:	Grouped Dwelling	
LOT SIZE:	898 m ²	
AREA:	Unit 1: 34 m ² , Unit 2: 38 m ²	
USE CLASS:	Dwelling Grouped (R-Code) 'P' Permitted	

Submission

The applicant has provided the following reasons why the patios were built without planning approval:

“When we finalised drawings of the houses with the builder..., we asked that he include patios on plans that he submitted to Council. At the time money constraints precluded them being built with the houses. This was done and we were under the impression that Council had approved the plans with the knowledge that patios were to be built at a later stage. When we sought strata titling, it was discovered the approval did not include permission to build the patios. We now seek retrospective approval for the structures”.

Plans of the existing patios are with the attachments.

Report

Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3.

No further action is recommended in respect to the unlawful development, given that the owner has now sought approval and that the two patios do not detract from the amenity of the area.

It should be noted that a building licence cannot be issued retrospectively and the owner should be advised of this.

Residential Design Codes

Both patios fail to comply with the 1.0m setback requirements of the Residential Design Codes as a portion of the patio to Unit 1 is built up to the boundary and the patio to Unit 2 is setback 800mm from the boundary. In determining setback variations the Council is to have regard to the performance criteria under Clause 3.3.1 of the Codes, which states:

“Buildings set back from boundaries other than street boundaries so as to:



- *provide adequate direct sun and ventilation to the building;*
- *ensure adequate direct sun and ventilation being available to adjoining properties;*
- *provide adequate direct sun to the building and appurtenant open spaces;*
- *assist with protection of access to direct sun for adjoining properties;*
- *assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *assist in protecting privacy between adjoining properties”.*

It is considered that the existing patios do not inhibit solar access or ventilation to adjoining properties and do not have an impact on adjoining properties with respect to building bulk. The two properties are still provided with adequate solar access and ventilation. There are no concerns to granting a concession to the reduced setback distances to the patios.

Both units also fail to comply with the acceptable development requirements set out in Clause 3.4.2 of the Residential Design Codes of Western Australia, which requires outdoor living areas to have at least 2/3 of the required area without permanent roof cover, as opposed to 48% for Unit 1 and 25% for Unit 2 being uncovered. In determining the application, Council is to have regard to the performance criteria under Clause 3.4.2 of the Codes which states: “*An outdoor area capable of use in conjunction with a habitable room of the dwelling, and if possible, open to winter sun*”. The outdoor living areas are on the southern side of each dwelling and as such, would already have limited access to winter sun. Further, the patios are not permanent structures and can be removed at any stage. There are no concerns to granting a concession to the minimum Outdoor Living requirements.

The existing patios do not impact on the amenity of surrounding properties.

Conclusion

It is recommended that Council grant retrospective approval for the two patios on the subject lot.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*



- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
- *"To conserve the character and historic value of the human and built environment."*

Budget/Financial Implications

Nil

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

14.4 (MINUTE NO 2303) (OCM 17/02/2004) - FINAL ADOPTION OF AMENDMENT NO. 13 TO TOWN PLANNING SCHEME NO. 3 (93013) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant final adoption to the following amendment:-

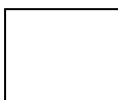
TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME CITY OF COCKBURN – TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 13

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:-

Amending the Scheme Maps as depicted on the Amendment Map by:-

1. Amending the Scheme Boundary in accordance with the Districts of Melville and Cockburn (Change of District Boundaries) Order 2003 (LG405) published in the



Government Gazette WA, gazetted on 27 June 2003.

2. Deleting the zones and reserves and Restricted Use 8 notation from that portion of the Scheme Maps occurring outside of the new district boundary described in (1) above falling within the City of Melville as set out in the Government Gazette, WA (LG405), Schedule 1 and Schedule 2, gazetted on 27 June 2003.
3. Adding the Primary Regional Road over a portion of Lot 0 on P13682 and D78591 (north of Leeming Rd) and portion of R39704 CSL2849 west of the centre line of the Kwinana Freeway and south of the centre line of Farrington Road.
4. Adding a Local Road Reserve south of the centre line of Farrington Road from R46840 to Lot 4065.
5. Adding the Special Use notation to the Scheme Legend.
6. Adding Lot 4065 on Plan 191259 and Lot 4066 on Plan 191260 and Lot 5 on Diagram 66412 and Lot 1 on Diagram 63519 and Lot 0 on Diagram 78591 (Loc 630) and R46840 Farrington Road within a Local Reserve - Public Purpose – Special Use reserve.

Amending the Scheme Text by:-

1. Deleting from Schedule 3 - Restricted Use 8 applying to CSL 4254 and Portion of Reserve 44544 (Loc. 4253) Murdoch Drive, North Lake from the Scheme Text.
- (2) in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission; and
- (3) advise the applicant of Council's decision accordingly.

COUNCIL DECISION

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

CARRIED 9/1



Background

At the Ordinary Meeting on 19 August 2003, Council resolved to initiate the scheme boundary change with the City of Melville. (Minute No 2121):

Submission

An amendment to Town Planning Scheme No. 3 (TPS3) is required due to the district boundary change between the City of Cockburn and City of Melville. Clause 1.3 of TPS3 describes the Scheme Area as that reflected on the Scheme Map. The Scheme boundary is inconsistent with the new district boundary gazetted on 27 June 2003 and hence the need for a scheme amendment. The new lots transferred to the district also need to be zoned or reserved on the Scheme Map.

The administration of the City of Cockburn and City of Melville schemes still applies until both town planning schemes can be amended. In the interim, the City could find itself in a position of being responsible for all planning applications within that portion of the district that has been exchanged with the City of Melville.

Report

The scheme amendment was referred to the Environmental Protection Authority (EPA) for consideration as well as publicly advertised.

The EPA indicated that the environmental impact of the proposal did not warrant formal assessment under the Environmental Protection Act. The EPA response advised that:

"In absence of information on the vegetation within the proposed Public Purpose – Special Use reserve (Lot 4065 on Plan 191259, Lot 4066 on Plan 191260, Lot 5 on Diagram 66412 and Lot 1 on Diagram 63519 and Lot 0 on Diagram 78591 (Loc 630) and R46840 Farrington Road), the EPA has decided that this factor (vegetation) should be deferred to ensure that the EPA has the opportunity to assess any future planning proposals related to these sites. Any proposal to subdivide and develop this area may be required to be referred to the EPA under Section 38 of the Environmental Protection Act for evaluation of the impacts of clearing".

Community Consultation

At the close of the submission period, other than an EPA response, the City received 1 submission. The submission is reviewed below.



Submitter	Objection/ Support/ Neutral	Summary of Submission
Various signatories	N/A	<p>The submission raised the following suggestions:</p> <p><u>Scenario 1</u> Request that Murdoch Chase Estate be included within the Melville City Council, based on the following: The geographical location, spread and distance proximity of the estate is more in confluence with Leeming and the City of Melville, than it is with North Lake. The new redrawn State Election boundaries place Murdoch Chase Estate within the Murdoch Constituency. The Real Estate companies consistently list properties for sale under Murdoch.</p> <p><u>Scenario 2</u> Retaining Murdoch Chase Estate within the City of Cockburn, with a separate postal entity so that it is referred to as Murdoch Chase and not North Lake.</p>

The above points are addressed in the discussion section below.

Discussion

The district boundary change was affected through the gazettal of the Districts of Melville and Cockburn (change of District Boundaries) Order 2003 (LG405), published in the Government Gazette WA, gazetted on 27 June 2003. The proposed scheme amendment has been initiated in order to bring the boundary changes into alignment with that gazetted under the Districts of Melville and Cockburn (change of District Boundaries) Order 2003 (LG405). As such, it is considered that the above submission points are not relevant to the proposed scheme amendment subject of this report. Accordingly it is recommended that the submission be dismissed.

Conclusion

The scheme amendment is a straight forward proposal that is based upon the district boundary change that was affected through the gazettal of the Districts of Melville and Cockburn (change of District Boundaries) Order 2003 (LG405). For this reason the proposal is supported and final adoption is recommended accordingly.



Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

Budget/Financial Implications

The Scheme Amendment documents are being prepared in-house where costs incurred relate to the administration, advertising of the documents and reporting to Council.

Legal Implications

Nil

Community Consultation

The proposed Scheme Amendment was subject to community consultation requirements as set out in the Planning Regulations. Affected property owners within the City of Cockburn were notified of the proposal.

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

Nil.



14.5 (MINUTE NO 2304) (OCM 17/02/2004) - PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 11 - INCLUDING PHOENIX PARK DISTRICT CENTRE ZONE IN SCHEDULE 3 - RESTRICTED USES - DA 10 - ATWELL SOUTH CONTAINED IN SCHEDULE 11 - LOT 63 ROCKINGHAM ROAD, SPEARWOOD AND DA10 - ATWELL SOUTH - OWNER: VOLLEY INVESTMENTS PTY LTD AND LANDCORP (93011) (JLU) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (2) adopt the following amendment with modifications that clarify the 'Restricted Use' column in Schedule 3 and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

AMENDMENT NO. 11

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

1. The City of Cockburn under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended), hereby amends the above Town Planning Scheme by:

1. Including the following in Schedule 3 – Restricted uses of the Scheme:

No.	Description of Land	Restricted Use	Conditions
RU 11	The land included within the District Centre Zone on the corner of Phoenix Road and Rockingham Road, Spearwood.	Those uses which may be permitted within the District Centre Zone as set out in Table 1 – Zoning Table subject to there being no more than two (2) supermarkets within the District Centre Zone. For the purpose of this clause a supermarket is defined as a self-service retail store or	Planning Approval

		market, with a sales area of 400sqm (NLA) or greater, the main function of which is to sell a variety of ordinary fresh and/or packaged food and grocery items.	
<p>2. Amending the Scheme Maps to identify the District Centre Zone on the corner of Phoenix Road and Coleville Crescent, Spearwood as Restricted Use RU 11.</p> <p>3. Modifying paragraph 6 in DA10 – Atwell South contained in Schedule 11 – Development Areas of the Scheme replacing “2,700m²” with “5,000m²”.</p> <p>(3) advise those who made submissions of Council’s decision accordingly.</p>			

COUNCIL DECISION

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

CARRIED 9/1

Background

ZONING:	MRS:	Urban
	TPS3:	District Centre and Development Zone
LAND USE:	Shopping centre and retail	
LOT SIZE:	N/A	

At its meeting on 15 July 2003, Council resolved to initiate Town Planning Scheme Amendment No. 11 to restrict the additional 8,000m² floor space within the Phoenix Park District Centre to non-food uses and to modify DA10 – Atwell South contained in Schedule 11 to increase the specified floor space from 2,700m² to 5,000m². The amendment implements two recommendations of the City of Cockburn Local Commercial Strategy endorsed by Council in November 2002.

Report

The amendment was forwarded to the Environmental Protection Authority (EPA) in August. The amendment was not assessed by the EPA and no environmental advice was provided.



The amendment was advertised for public comment for 42 days from the 24 September to 5 November 2003. The Shopping Centre Managers were also notified of the proposed amendment.

Two submissions were received during the advertising period. A Schedule of Submissions is contained within the attachments to the Agenda. The submissions do not object to the overall amendment, however, they raise a number of concerns. Comments on each of the matters raised are as follows:

1. *Potential increased traffic along the streets east of Gerald Street as a result of the increase in size of Phoenix Shopping Centre –* Council's Engineering Section comments that the only changes to the traffic regime will be if the expansion of the centre creates extra demand. For this to occur the centre would need to attract people from outside its current catchment. Currently the only traffic problem is along Rockingham Road and results from the number of crossovers onto Rockingham Road. The amendment does not propose any further crossovers and relates to the uses within the centre only. Any further crossovers onto Rockingham Road would require Council approval.
2. *There should be no restrictions on the additional floor space and that the use of the Scheme to control retail classifications is not appropriate –* The intention of the 'Restricted Use' provisions contained within the amendment for Phoenix Park Shopping Centre is to prevent no more than two (2) food supermarkets being within the Centre. The reason for this is to ensure that the viability of neighbouring centres are not adversely affected by the expansion of Phoenix Park. The use of the Scheme to restrict the types of development that can be included in the District Centre Zone already occurs through the Zoning Table. The proposed provisions in the amendment are appropriate as the Scheme holds the ultimate statutory power to facilitate development within the City.

The submission goes on to further say that "while the owners accept that an additional supermarket may not be provided in the District Centre, the limitation of a 'mini-mart or the like' has serious implications for the viability and needs of the Phoenix Shopping Centre." It was not the intention of the amendment to exclude such uses as a butcher, specialty food, gourmet shops etc. It was the intention, in accordance with the recommendations of the Local Commercial Strategy, to prevent another supermarket from being included in the centre.

3. *Limiting the uses that can be provided on the site will significantly limit any potential for the redevelopment of the shopping centre –* The proposed amendment limits the



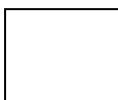
development of a further supermarket in Phoenix Park Shopping Centre only, it does not limit any other form of development.

4. *The amendment has been initiated prior to the WAPC endorsing the Local Commercial Strategy and therefore any amendment based on the recommendations of the Local Commercial Strategy is premature* – Council adopted the Draft Local Commercial Strategy at its meeting on 19 November 2002. The Strategy was forwarded to the WAPC in November 2002 for endorsement. At the time of writing this report, the WAPC had not endorsed the Strategy and DPI officers advised that there was no commitment in terms of a likely timing for the consideration of the Strategy. This was also the status of the Strategy when the amendment was initiated in July. Given there is no commitment for the consideration of the Strategy, Council considered it necessary to ensure that controls are in place prior to a development proposal being pursued that could compromise the recommendations of the Local Commercial Strategy. The initiation of this amendment is not considered premature, complies with all four requirements of ‘Planning Practice Note PN1/2002 – Town Planning Scheme Amendments and Consent to Advertise’ and could be dealt with by the WAPC at the same time as it endorses the Strategy.

5. *The proposed amendment and TPS No. 3 do not define supermarket or mini-mart and the use of words “or the like” is ambiguous* – The submission made on behalf of Phoenix Shopping Centre owners is correct in that neither the amendment or the Scheme contain a definition for supermarket or mini-mart. The Model Scheme Text also does not contain a definition for supermarket or mini-mart. The current provision contained in the amendment is as follows:

“Those uses which may be permitted within the District Centre Zone as set out in Table 1 – Zoning Table subject to there being no more than two (2) food supermarkets, mini-marts or the like which retail food and grocery items within the District Centre Zone.”

Council officers met with Phoenix Shopping Centre owners and their representatives on 10 December 2003, to discuss the amendment. At this meeting concern was raised by The Planning Group (representing Phoenix Shopping Centre) that the definition should contain a size restriction on the Net Leasable Area (NLA) to further clarify the definition of supermarket. The Planning Group suggested 500sqm be the minimum NLA. Council officers discussed this proposal with Tony Shrapnel, the author of the City’s Commercial Strategy, who recommends that if an area limitation is to be placed in the



amendment, that 400sqm is more appropriate. The 400sqm limit is recommended because:

- It is unlikely that a viable supermarket could operate in an area of 400sqm within Phoenix;
- Experience of 'express supermarkets' in the eastern states shows that they are operating in areas of around 500sqm and therefore the 400sqm limit should exclude an 'express supermarket' from opening in Phoenix.

Following further discussions with The Planning Group, it was agreed that the 'Restricted Use' provision contained in the amendment be modified to read as follows:

"Those uses which may be permitted within the District Centre Zone as set out in Table 1 – Zoning Table subject to there being no more than two (2) supermarkets within the District Centre Zone. For the purpose of this clause a supermarket is defined as a self-service retail store or market, with a sales area of 400sqm (NLA) or greater, the main function of which is to sell a variety of ordinary fresh and/or packaged food and grocery items."

This definition contains important key words including:

- Self-service
- Retail
- Main function
- Variety
- Ordinary
- Food and grocery

This definition would not exclude the development of specialty food and gourmet shops from occurring within Phoenix Park, nor would it exclude a large store (such as a department store) which included a small food and grocery section. The above changes address the objectives of the City and the concerns of the owners of the centre.

6. *The proposed limitations do not meet the objectives of the WAPC's Metropolitan Centres Policy Statement and in particular neighbourhood/local centres are being promoted as meeting weekly needs rather than day-to-day needs* – The relevant objectives of the WAPC's Statement of Planning Policy (SPP) No. 10 – Metropolitan Centres Policy Statement for the Perth Metropolitan Region to this amendment are:

- Promote District Centres to meet weekly shopping and service needs of the community including the provision of offices and community facilities; and



- Promote Neighbourhood Centres, Local Centres and corner shops as performing a vital role in providing the day-to-day convenience shopping for the neighbourhood as well as an important focus for neighbourhood services and community facilities.

The SPP goes on further to state "*Neighbourhood Centres and Local Centres which range from corner shops to small centres should be promoted as predominantly for convenience retailing and (in the larger centres) weekly food and groceries shopping.*" The SPP also states "Planning controls should support the future of small shops and centres by controlling the size of larger centres and limiting new competing retail development outside local centres defined in the Local Planning Strategies and structure plans."

The Local Commercial Strategy clearly states that an additional supermarket at Phoenix Park would undermine the potential viability of several neighbourhood/local centres.

Therefore, the proposed scheme amendment clearly meets and implements the objectives of SPP No. 11 by putting planning controls in place to protect the neighbourhood and local centres.

7. *The proposed amendment seeks to limit all additional food retailing* – The intent of the amendment was not to exclude all additional food retail within Phoenix Park. This issue has now been addressed with modifications to the amendment as outlined in point 5 above.

In conclusion, as Council and the owners of the Phoenix Shopping Centre have successfully negotiated an outcome addressing the issues raised in the Centre owners submission, it is recommended that Council proceed with the adoption of Amendment No. 11 subject to the definition of a supermarket being modified to include a floorspace area.

Strategic Plan/Policy Implications

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

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



The Planning Policies which apply to this item are:-

SPD4 'Liveable Neighbourhoods'

Budget/Financial Implications

N/A

Legal Implications

Nil.

Community Consultation

The Scheme Amendment was advertised in the West Australian on 24 September 2003, for a period of 42 days with submissions closing on 5 November 2003.

The owners of the Phoenix Shopping Centre and Atwell South Shopping Centre were notified in writing of the amendment and requested to make submissions. A submission was received from the owners of Phoenix and one other submission from a concerned rate payer.

A meeting was held with the owners of the Phoenix Shopping Centre and their representatives (The Planning Group) on 10 December 2003, to discuss their submission. Further discussions following the meeting have resolved the concerns raised in the submission.

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

Nil.

14.6 (MINUTE NO 2305) (OCM 17/02/2004) - PROPOSED DELETION OF THE FREMANTLE EASTERN BYPASS - POTENTIAL IMPACTS ON THE CITY OF COCKBURN (9702) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report; and
- (2) based on the information contained in the report, prepare a public handout.



COUNCIL DECISION

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

CARRIED 9/1

Background

Council at its meeting held on 18 February 2003, resolved to support the deletion of the Fremantle Eastern Bypass from the MRS (Amendment 1055/33).

Council at its meeting held on 16 December 2003, resolved to:-

“(4) request the Director Planning and Development to prepare a report on the potential impacts that could arise within the City of Cockburn as a result of the decision by the State Government to delete the Fremantle Eastern Bypass Primary Regional Road Reserve from the Metropolitan Region Scheme;...”

A number of reports on the Fremantle Eastern Bypass (FEB) have been presented to the Council over the past year. It is not intended to repeat the history of the FEB, but to use published information to identify the potential impacts on the City of Cockburn should the Bypass be deleted as has been determined by the State Government.

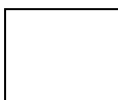
The deletion of the FEB is currently before the Parliament. It is understood that a notice of disallowance has been introduced by Mr Simon O'Brien, the Member for the South Metropolitan Region.

The proposed deletion of the FEB is based on a six (6) point plan which involves:-

- Extend Roe Highway to Kwinana Freeway
- Put more freight on rail
- Build inland container terminals
- Make better use of our roads
- Plan now for the Outer Harbour at Kwinana
- Improve existing roads.

Some of these points in the plan will impact on the City.

At the close of the public submission period, the WAPC had received 9736 submissions. Of these 8290 (85.1%) did not support the deletion of the Bypass. As a result, the Hearings Committee recommended that the Bypass not be deleted at this time but despite this, the WAPC recommended that it be deleted.



Council at its meeting held on 16 December 2003, requested the WAPC to implement the recommendations associated with the FEB to be implemented without delay and to proceed with the construction of the road works to upgrade the Stock Road/Leach Highway link to Fremantle Port.

Submission

N/A

Report

This report should be read in conjunction with previous reports on the FEB considered by Council at its meeting on 18 February 2003 (Minute No. 1913) and 16 December 2003 (Minute No. 2243).

The potential impacts as contained in the Government's six (6) Point Plan.

- ***Extend Roe Highway to Kwinana Freeway***

The design and construction tender for the extension of the Roe Highway Stage 7 to connect into the Kwinana Freeway has been let. It is expected that the extension will be open by 2006.

According to the Connell Wagner Report - March 2003, prepared for the WAPC, Roe 7 will carry 54,000 vehicles per day (vpd) east of Karel Avenue and 46,000 vpd west of Karel Avenue by 2031.

The State Government has assumed that with the deletion of the FEB, Roe 8 west of the Kwinana Freeway will not need to be constructed.

As part of the extension of Roe 7, it is likely that Karel Avenue will be connected directly into Berrigan Drive, so as to provide a "commercial" access into Jandakot Airport. This is likely to result in increased traffic being distributed onto Karel Avenue and Farrington Road and onto Berrigan Drive. The Connell Wagner Report does not provide information about the impacts on Berrigan Drive.

Traffic on the Kwinana Freeway within the district will increase significantly south of the Roe Highway from 53,000 vpd to 125,000 vpd by 2031 and from 39,000 vpd to around 81,000 vpd between Beeliar Drive and Thomsons Lake.

- ***Put more freight on rail***

The number of containers handled at Fremantle Port has increased from 350,000 to 430,000 units in less than 2 years. (WAPC Vol. 1 Report pp9) which represents an increase of 80,000 (23%). It is



expected by 2017, the number of units will have increased to around 1.2 million per annum. According to informal advice from the Fremantle Port, container growth has been in the order of 8% to 11% per annum over the past 5 years. At this rate, it could be expected that 1.2 million containers for per annum could be achieved by 2016, or by 2012 depending upon a low or high growth scenario. At an 8% growth rate, 1.3 million units would be reached by 2017 while the higher growth rate would reach in excess of 2 million units by this date. Fremantle Port is of the opinion that 1.2 million units is likely to be the operational capacity of the inner harbour.

This will have a significant impact on the City by the development of the Outer Harbour in 2010 and the associated areas of transport/container areas included in the Proposed Hope Valley-Wattleup Redevelopment Area Master Plan totals 390 ha or 27% of the total project area. This will generate a large amount of freight traffic onto Rowley Road, Rockingham/Stock Road, Russell Road and North Lake Road.

The Government has stated that by 2012, 30% of all containers will be conveyed by rail. This means that, based on the lower growth rate of 8% per annum, around 300,000 units per year could be travelling through the suburbs of Jandakot (Glen Iris), Bibra Lake, South Lake, Yangebup, Spearwood (Port Coogee) and Hamilton Hill (South Beach) until such time as the Outer Harbour is operational. This has the potential to have a major impact on these existing and proposed residential areas if adequate measures are not introduced to reduce the impact of noise and vibration. It is understood that the trains are expected to increase to around 8 movements per day, be 800 metres long and be double stacked with containers.

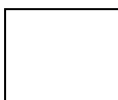
- ***Build inland container terminals***

This does not have a direct impact on the City of Cockburn.

- ***Make better use of our roads***

According to the Connell Wagner Report, the preferred "Stock Road Option" with Stock Road and High Street upgraded to 6 lanes, together with:-

- redesign the Stirling Highway/High Street signalised intersection,
- build a grade separated intersection at the junction of Leach Highway and Stock Road,
- build grade separated intersections on Stock Road at:-
 - South Street
 - Winterfold Road
 - Forrest Road



- Phoenix Road
- Spearwood Avenue
- Barrington Street
- Beeliar Drive
- Russell Road

The impact of this proposal, together with the termination of the Roe Highway at the Kwinana Freeway on the road network within the City of Cockburn is predicted by the year 2031 to be:-

<u>Effectuated Road</u>	<u>2001 vpd</u>	<u>2031 vpd</u>
Hampton Rd/ north of Rockingham Rd	30,000	<u>33,000</u>
Cockburn Rd/ south of Rockingham Rd	15,000	<u>17,000</u>
Rockingham Rd/ west of Hamilton Rd	12,000	10,000
Rockingham Rd/ east of Hamilton Rd	16,000	10,000
Hamilton Rd/ south of Rockingham Rd	8,600	<u>12,000*</u>
<u>Stock Rd/ south of South St</u>	22,000	<u>55,000**</u>
<u>Stock Rd/ south of Phoenix Rd</u>	25,000	<u>52,000**</u>
<u>Stock Rd/ south of Spearwood Ave</u>	15,000	<u>43,000**</u>
<u>Rockingham Rd/ south of Russell Rd</u>	21,000	<u>46,000**</u>
<u>Russell Rd/ west of Rockingham Rd</u>	6,400	<u>16,000**</u>
<u>Russell Rd/ east of Rockingham Rd</u>	5,500	<u>13,000**</u>
<u>Forrest Rd/ west of North Lake Rd</u>	8,000	<u>28,000**</u>
Farrington Rd/ east of North Lake Rd	23,000	<u>25,000</u>
North Lake Rd/ south of Farrington Rd	23,000	<u>26,000</u>
North Lake Rd/ south of Phoenix Rd	22,000	<u>34,000*</u>
<u>Beeliar Dr/ west of North Lake Rd</u>	13,000	<u>29,000**</u>

(Note: _____ indicates an increase and * a significant increase)

According to the Connell Wagner Report, it appears that traffic volumes will decrease on:-

- Carrington Street
- Winterfold Road
- Phoenix Road

Traffic is expected to more than double on the following roads:-

- Forrest Rd/west of North Lake Road 350% inc.
- Stock Rd/south of Spearwood Ave 286% inc.
- Stock Rd/south of South St 250% inc.
- Russell Rd/west of Rockingham Rd 250% inc.
- Russell Rd/east of Rockingham Rd 236% inc.
- Beeliar Dr/west of North Lake Rd 223% inc.
- Rockingham Rd/south of Russell Rd 219% inc.
- Stock Rd/south of Phoenix Rd 208% inc.



It can be seen that there will be traffic increases on nearly all the major district roads in the City. Some will carry increased freight traffic serving the port and the industrial areas to the north and east, from origins and destinations within the South-West Corridor.

- ***Plan now for the Outer Harbour at Kwinana***

The Council supports the acceleration of the development of the Outer Harbour.

The Outer Harbour proposed by Fremantle Port is proposed to be located south of the Naval Base Camping Reserve at Challenger Beach.

The construction of the harbour is proposed to be commenced in 2010. Planning has already commenced. The Hope Valley-Wattleup Redevelopment Area project does not provide for the harbour in the proposed Master Plan, however, it is generally agreed that the port is required, given that it is expected that the inner harbour will reach its capacity by 2017.

- ***Improve existing roads***

In respect to the City of Cockburn, the following roads have been identified as requiring upgrading to provide for increased general and freight traffic, according to the Connell Wagner Report:-

- Stock Road upgraded to 6 lanes
- Stock Road/Rockingham Road grade separated intersections.

The report suggests that so long as road congestion at Category 'E' (Category A = free flow and Category F = forced flow break down) is accepted for the major roads in the network, then no works will be required before 2011. (ie. Stock Road, Leach Highway and High Street).

It should be noted that Main Roads WA typically requires regularised intersections to operate at Category 'C', which is described as stable flow.

Given this, it is expected that any road upgrades could be undertaken some time between 2011 and 2017.

The report does not deal with the future of Cockburn Road. It can be assumed that if the FEB is deleted from the MRS, that the need for the Fremantle to Rockingham Highway along the Coogee coast will not be required as currently planned.

Without the FEB, access to Fremantle from Cockburn will primarily be confined to Cockburn Road and Hampton Road, Stock Road and South Street from areas in the south of the City.



For residents in the east of the district, access to Fremantle will be via North Lake Road and South Street.

Access to Perth will mainly be via the Kwinana Freeway, using the link roads of Beeliar Drive, Berrigan Drive, Farrington Street, South Street and Leach Highway.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

14.7 (MINUTE NO 2306) (OCM 17/02/2004) - OMNIBUS AMENDMENT - TOWN PLANNING SCHEME NO. 3 (93006) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following modifications to Amendment 6:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3.

AMENDMENT NO. 6

Resolved that Council, in pursuance of section 7 of the Town Planning and Development Act 1928 (as amended) amend the above Town Planning Scheme as follows:-

Amending the Scheme Text and Maps in accordance with Schedule A, Schedule B and Schedule C.

Dated this Tuesday 17th day of February 2004



Chief Executive Officer

- (2) sign the modified documents and advise the WAPC of Council's decision;
- (3) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not with the Amendment; and
- (5) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under section 48(A) of the Environmental Protection Act, the Amendment be referred to Council for its determination as to whether to proceed with the Amendment.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Clr A Tilbury that Council:

- (1) adopt the following modifications to Amendment 6:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3.

AMENDMENT NO. 6

Resolved that Council, in pursuance of section 7 of the Town Planning and Development Act 1928 (as amended) amend the above Town Planning Scheme as follows:-

Amending the Scheme Text and Maps in accordance with:

- a) Schedule A, with the exception of item 26,
- b) Schedule B, with the exception of item 27, and
- c) Schedule C.



Dated this Tuesday 17th day of February 2004

Chief Executive Officer

- (2) sign the modified documents and advise the WAPC of Council's decision;
- (3) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not with the Amendment; and
- (5) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under section 48(A) of the Environmental Protection Act, the Amendment be referred to Council for its determination as to whether to proceed with the Amendment.

CARRIED 10/0

Explanation

Council considers that it should not further limit the matters to which it may have regard when exercising its discretion under its Town Planning Scheme. It believes the existing clause 10.2 complies with the aims of the Scheme under clause 1.6.1.

Background

The City of Cockburn Town Planning Scheme No 3 (TPS3) was gazetted on 20 December 2003. There are various improvements and corrections that are required, identified through the course of applying and administering TPS3. The amendments are a reflection of the significant number of changes that were required by the Minister for Planning and Infrastructure that lead to the final gazettal of TPS3.



Council at its Ordinary Meeting held on 18 November 2003, resolved in respect of the Omnibus Amendment to:-

- “(1) defer consideration of this item to the December Council Meeting;*
- (2) provide a printed copy of its Town Planning Scheme No.3 Text and Maps (as amended) to Elected Members, on request; and*
- (3) conduct a workshop to brief Elected Members on Town Planning Scheme No.3 Text and Maps (as amended).”*

Submission

The proposed changes to the Scheme Text and Scheme Map are now set out in three Schedules as follows:-

- Schedule A – Minor Scheme Text Amendments;
- Schedule B – Major Scheme Text Amendments; and
- Schedule C – Scheme Map Amendments.

These Schedules are contained in the Agenda Attachments and should be read in conjunction with this report.

Report

A Councillor Briefing session was conducted on Tuesday, 27 January 2004 at the Council Administration Building. The session involved a presentation of the major changes proposed to Town Planning Scheme No 3, which are primarily text modifications.

Some concerns were raised in Schedule B (Major Scheme Text Changes) in respect to the proposed changes to Clause 5.15 that deals with the Protection of Native Flora. This proposal has been modified to apply to the clearing of 1.0 hectare or more of land. This will ensure that developers don't have to engage a botanist to report on the significance of vegetation on small-scale development on land where existing protective vegetation measures are already in place, for example, in the Resource Zone. Clause 5.15 would be applied to development or land use such as excavations and turf farms where clearing is expected to be over a large area.

In Schedule B – Clause 10.2.1 (za) has also been adjusted following Elected Member discussion on the appropriateness of redefining the extent of Council discretion when considering an application for planning approval. The current Scheme Text Clause is as follows:-

“(za) Any other consideration the local government considers appropriate.”

The words *“town planning”* are proposed to be inserted as follows:-



“za) Any other town planning consideration the local government considers relevant.”

Although some Elected Members were concerned that the change would fetter the Council’s discretion, Development Services believes that only relevant town planning principles should be considered in the exercise of Council’s quasi-judicial powers. These powers are derived from town planning legislation. Making decisions on matters unrelated to orderly and proper planning may leave Council’s decision-making open to challenge.

In Schedule B – proposed Clause 9.1.3 was not discussed at the briefing session. This new Scheme Text clause would require an application for Building Licence instead of an application for planning approval for a Single House that requires a variation to the Residential Design Codes. This streamlined approach will simplify the application process for building companies and the City, however a separate planning application fee will still apply.

Other proposed changes as discussed at the briefing session are set out in Schedule A, Schedule B and Schedule C.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *“To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens.”*

Budget/Financial Implications

Costs incurred relate to the administration, advertising of the scheme amendment documents and reporting to the Council. Adequate funds are available to cover these costs.

Legal Implications

City of Cockburn Town Planning Scheme No 3.
Town Planning & Development Act 1928 (as amended)
Metropolitan Region Scheme
Planning Regulations

Community Consultation

The proposed Scheme Amendment would be subject to community consultation as set out in the Planning Regulations.



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

Nil.

14.8 (MINUTE NO 2307) (OCM 17/02/2004) - TOWN PLANNING SCHEME NO. 3 - SCHEME AMENDMENT NO. 15 - LOTS 6 AND 165 (117 & 121) FORREST ROAD, HAMILTON HILL - OWNER: MICHELINA MANCINONE - APPLICANT: KOLTASZ SMITH (93015) (VM) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 15

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

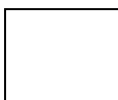
1. recoding Lots 6 and 165 (117 & 121) Forrest Road, (Sawle Road) Hamilton Hill from "Residential R20" to "Residential R25";
2. amending the Scheme Map accordingly.

Dated this.....day of2004

Chief Executive Officer

- (2) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;

- (3) notwithstanding (2) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme



Amendment should be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;

- (4) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not proceed with the Amendment;
- (5) advise the applicant of Council's decision; and
- (6) contribute \$20,000 towards the cost of road construction with these funds allocated as part of the budget review.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0

Background

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	Residential	
LOT SIZE:	Combined area of 9037m ²	

The subject lots have previously been cleared and are located in an area where market gardening has historically occurred. The surrounding area has now developed into a residential area and the site is currently vacant. Two houses front onto Forrest Road that are both to be retained.

The subject site gently slopes from a height of 28m in the north east corner to 20m in the south western portions of the land.

Because of past market gardening and grazing on the site, no remnant vegetation of significance remains outside of limited stands of trees associated with the existing residences. Several trees will be retained under this rezoning proposal for the time being, however, some will be removed as part of the demolition of one of the existing houses.



The landowner received Planning Approval from the City on 3 July 2003, to develop 7 grouped dwellings at the southern portion of the property, south of Sawle Road. The proposal incorporated two driveways being the extensions of both portions of Sawle Road into the property. The driveways were proposed to be extended from Sawle Road and elbowing north and south into the development. The proposal also included the provision of a pedestrian/drainage easement through the private property.

The proposed pedestrian easement through private land raised other issues such as public liability insurance. Without the road connecting through the lot, vehicular access was not possible.

Officers approached the landowner and discussed the possibility of creating a public road through the lot by subdividing the lot into 2 and creating a public road connecting Sawle Road east to west.

Based on this agreement, a subdivision application was lodged by the owner to create a road reserve and supported by the City in recommendations to the WAPC. (Refer attached subdivision plan)

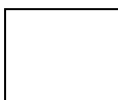
The landowner will give up free of cost approximately 814m² to the Crown for road purposes, thus reducing the potential lot yield for the site. Therefore the rationale of the submitted scheme amendment which will increase the residential density to maintain the yield.

Submission

The applicant has provided the following justification for the proposed Scheme Amendment:-

"This submission has been prepared following approval being granted to a grouped dwelling proposal on the southern side of the alignment of Sawle Road and in recognition of Council's approach to the owner of the land in order to have Sawle Road connected as a public road. In so doing, and to satisfy Council vehicle and pedestrian movement objectives, support has been given for the progression of a rezoning amendment to reclassify the land to "Residential R25" density. Council has further suggested a number of other items that will form part of a legal agreement to ensure that the road is constructed and ceded in accordance with Council requirements and that the development of the land can proceed in a logical manner.

Notwithstanding the legal agreement suggested by Council, the site represents an excellent opportunity to more efficiently use vacant land and to make better use of existing infrastructure and community services in the region. Development of the site will create an alternative product for the market which respects changing demographics and household composition and will maximise the use of adjoining



commercial, retail, recreation, community and transport and servicing infrastructure.

It is therefore requested that this submission be presented to Council for the initiation of a Town Planning Scheme rezoning amendment. Upon receipt of a Council resolution supporting the initiation of the amendment, formal statutory Scheme documents will be presented to Council for advertising and key stakeholder comments.

The development of the land including the construction of Sawle Road as a public road reserve will therefore proceed following progression of the amendment in a manner that satisfies both Council objectives for public infrastructure as well as infilling a large area of land ideally located to satisfy increasing demand.”

Report

Lots 6 and 165 are zoned Residential R20 under the Town Planning Scheme No. 3 (TPS3). Sawle Road extends to the property’s eastern and western boundaries where the pavement currently terminates.

Location

A range of commercial and retail services are located to the west within a short walk from the site and this includes a shopping centre containing a small supermarket and a range of specialist shops. A large park is situated immediately to the west and a range of densities including small lots, grouped developments and retirement villages are in the vicinity of the subject land.

Residential Density

With the provision of land to be given to the Crown for road purposes, the landowner will lose approximately 814m². The total lot yield for the land is 20 units on a Residential R20 lot. As the applicant has ceded 814m² to the Crown for road purposes, the proposed rezoning from R20 to R25 would allow a total lot yield of 25 units. However, the landowner is prepared to create two grouped dwelling lots with a total of 21 dwellings and an existing house. The house in the near future is to be demolished and an additional 2 grouped dwellings can be accommodated on the existing house area, providing a total lot yield of 23 units over the development, a net increase of 3 units. (Refer Development concept attached to the Agenda)

The minor increase in density and the benefits of extending Sawle Road can be supported as it is a better outcome than having no road connection and a 20 unit development.

The other benefit of connecting Sawle Road east-west is to provide a better outcome for the existing drainage system in the area. There is currently a sump on Lot 61 Sawle Road adjoining the subject site to the east. With the provision of the public road through the site, the current



sump on Lot 61 will be closed and filled in with a new sump created further to the west on Reserve 27960.

Drainage

Lot 61 has a current restriction on the lot which stops further development on the land until alternative arrangements are made to accommodate the drainage of the area. With the provision of a sump on Reserve 27960, the lot can then be utilised for residential purposes. The owner of Lot 61 will be paying for portion of the costs in extending the drainage to Reserve 27960. A legal agreement is currently being prepared to ensure all aspects of the cost of the relocation of the sump have been agreed between Council and the landowner of Lot 61.

Sawle Road Extension

In relation to the costs of the road, Officers had discussions with the landowner and agreed to the following:

- The costs apportioned to the owner in terms of the Sawle Road reserve are to be equivalent to the costs that would otherwise have been associated with the construction of a paved private driveway from the western end of Sawle Road. The balance of the construction costs for pavement, services, kerbing and landscaping are to met by the City.
- The owner is to have the works associated with a private driveway costed as well as the works associated with the road being extended as a public road and including all necessary services as required by Council's engineering standards. The former costs are to be paid by the proponent with the difference between that and the public road reserve being met by the City.

Conclusion

The proposal is consistent with the objectives of the Residential Zone which is to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes. It is considered that the subject site is appropriately located and there is merit to support an increase in density in this instance.

There are no objections to TPS3 being amended to increase the residential density to R25.

If Council initiates the scheme amendment, the proposal will be referred to the EPA and subject to approval, be advertised for public comment in accordance with the Town Planning Regulations.

Strategic Plan/Policy Implications

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



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

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

4. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*

Budget/Financial Implications

Preliminary costs by the City's engineers have indicated that the cost to construct Sawle Road, drainage and kerbing plus filling in the existing drainage sump on Lot 61 would be approximately \$47,000. A portion of the cost (approximately \$20,000) will be contributed by the City with the remainder to be funded by the owner of the site and part by the adjoining owner of Lot 61. It is anticipated that the Council's proportional costs of \$20,000 will need to be included in Council's budget review.

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

14.9 (MINUTE NO 2308) (OCM 17/02/2004) - RETROSPECTIVE APPROVAL - EXISTING LIMESTONE RETAINING WALL - LOT 381; 25 SPINNAKER HEIGHTS, YANGEBUP - OWNER/APPLICANT: GA & JA CUKROV (4414100) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant retrospective approval to the existing limestone retaining wall on Lot 381 (No. 25) Spinnaker Heights Spearwood, subject



to the following conditions:

STANDARD CONDITIONS

1. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
 2. This approval relates to the existing limestone retaining wall only. Separate approval shall be obtained for the proposed single house prior to the construction of the single house.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval; and
- (3) advise the owner that because the retaining wall has been constructed the Council is unable to issue a building licence retrospectively.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr A Edwards that the recommendation be adopted.

CARRIED 10/0

Background

ZONING:	MRS:	Urban
	TPS3:	Development (DA 4) (DCA 5)
	Structure Plan	Residential R20
LAND USE:	Vacant	
LOT SIZE:	612 m ²	
AREA:	N/A	
USE CLASS:	Single (R-Code) House 'P' Permitted	

Application

The application is retrospective because the limestone retaining wall is existing and has been constructed without the prior planning approval of Council or a building licence being issued.



The existing limestone retaining wall is 0.73 metres in height at the south eastern corner of the property and approximately 2.91 metres in height at the south western corner of the property along the street front boundary.

Submission

The applicant has provided the following reasons as to why the retaining wall was constructed without planning approval:

“The wall was completed in August/September... We assumed at this time that the retaining wall was completed with the approval of the Cockburn City Council.

We have now discovered, through information from your Council arising from the builders to obtain a building approval, that you have no record of the relevant approvals for the erection of our retaining wall.

Unfortunately ... [the builder] has since passed away and we are having difficulty in ascertaining whether ... [the builder] had obtained the relevant approvals for our retaining wall”.

Plan showing the existing retaining wall is attached.

Report

Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3.

No further action is recommended with respect to the unlawful development, given that the owner has now sought approval and that the adjoining affected landowner has no objection to the retaining wall.

It should be noted that a building licence cannot be issued retrospectively and the owner should be advised of this.

Residential Design Codes

The positioning of the existing limestone retaining wall along the common side boundary and within three metres of the street alignment, fails to comply with Clause 3.6.2 of the Codes pertaining to setback requirements.

In determining the application, the Council is to have regard to the performance criteria under Clause 3.6.2 of the Codes, which states:

“3.6.2 P2 Retaining walls designed or set back to minimise the impact on adjoining property”.



A retaining wall with a length of 30 metres and maximum height of 2.91 metres is required to be setback a minimum of 6 metres from the common boundary. The existing retaining wall by comparison is located on the boundary.

The land to the south will be subject to future subdivision. It is considered that the proposed two storey residence on the subject property, including the retaining wall with a 1.8 metre boundary fence on top of the boundary wall, will comply with the overshadowing provisions of the Codes when calculating the affected property to the south (600m² property). The Codes allow for up to 25% overshadowing on an adjoining property. The proposed two storey residence, retaining wall and 1.8 metre boundary fence will cause 22% of the adjoining property to the south to be overshadowed, which is acceptable under the Codes.

As the adjoining affected landowner to the south of the subject property has stated that they have no objection to the existing limestone retaining wall, there are no objections to the development and the variation under the Codes.

Conclusion

It is recommended that the retrospective application for an existing limestone retaining wall be approved for reasons outlined in the report.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

N/A



Legal Implications

Nil.

Community Consultation

The applicant has consulted with the adjoining affected landowner. The adjoining affected landowner has no objection to the existing limestone retaining wall.

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

Nil.

AT THIS POINT THE TIME BEING 7.56PM, DEPUTY MAYOR GRAHAM AND MR DON GREEN LEFT THE MEETING.

14.10 (MINUTE NO 2309) (OCM 17/02/2004) - PROPOSED REVISED STRUCTURE PLAN - PT LOT 24 AND LOT 25 RUSSELL ROAD, AND LOTS 19 AND 20 HAMMOND ROAD, SUCCESS (MAGNOLIA GARDENS PHASES 2 & 3) OWNER: GOLD ESTATES OF AUST (1903) LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (9638A) (VM) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the Revised Structure Plan for Magnolia Gardens Estate Phases 2 and 3 dated 4 February 2004, in accordance with Clause 6.2.9 of Town Planning Scheme No. 3, subject to the following:-
 1. The proposed intersection roads within the subdivision to be modified to ensure Road Australian Standards are met.
 2. The temporary connection to Russell Road through Lot 458 to be closed upon the development of the Park 'N' Ride facility incorporating an alternative access to the subdivision.
 3. Notations being included on the Structure Plan advising of the road connection to Russell Road through Lot 458 is temporary and is to be closed when alternative access to Russell Road and the Station carpark are constructed.
 4. The road abutting Council's Recreation Reserve may be connected to Russell Road in the future, depending on



traffic and access requirements for the School and Recreation area.

5. A Rehabilitation and Landscape Management Plan is required for the large public open space (POS) area to Council satisfaction.
6. The existing MRS Railway Reserve which is part of MRS Amendment 1032/33 to be shown on the plan.
7. An 8 metre pedestrian accessway (PAW) connecting the internal road to the principal shared path within the Freeway reserve is to be provided along the northern boundary of the R40 Group Housing site located to the immediate north of the Railway Station land.
8. The proposed road located to the east of the primary school to be modified to include a link to the west to ensure better permeability and accessibility to the primary school. The road to be modified as shown on the plans.
9. Verge parking be provided on each of the roads abutting the school to provide for car parking to service the school and is to be designed and constructed to Council's satisfaction.
10. The right/left intersection between an access road and a laneway illustrated in the plan under the words "Phase 2" to be amended to ensure a 20 metre intersection separation is achieved in accordance with Australian Road Standards.

(2) advise the applicant of the following:-

1. Council requires road reserves and pavement widths to be designed in accordance with relevant Council policy.
2. The proposed showroom vehicular access is not permitted directly from Russell Road.
3. Groundwater availability in this region may be limited and it is suggested that they liaise with the Water and Rivers Commission in this regard. In the event that a groundwater allocation cannot be obtained for the irrigation of the public open space areas to be provided as part of the development, the configuration and function of such areas may require modification.
4. Public open space credits will not be able to be finally determined until detailed drainage design has been



accepted by the City and any other relevant agency.

5. Disposal of stormwater must comply with the requirements of the South Jandakot Drainage Management Plan and the Environmental Management Programme for the South Jandakot Drainage Scheme.
6. Proposals for the subdivision should address issues relating to noise from the Kwinana Freeway and future Perth to Mandurah railway.
7. Subdivision proposals for the Success Lakes Developer Contribution Area (DCA 2) will attract conditions requiring contributions towards the construction of Hammond and Russell Roads in accordance with the Development Contribution Plan- DCA 2 Success Lakes.
8. The concept to develop a nursery within the high voltage transmission corridor is considered to have merit, but will ultimately be a matter for Western Power to determine. Preliminary advice is that a "Wholesale Nursery" is unlikely to be considered a suitable use.
9. Stormwater from residential developments should not be directly discharged into any waterways, wetlands or existing open drains. The Commission will not accept any lowering of the groundwater as this will lead to an export of nutrients off-site and will also adversely impact upon remnant vegetation. Subsoil drains may be installed to control rises but should be located no lower than the Average Annual Maximum Groundwater Level (AAMGL). There should be separation of 1.2 metres between the floor level and AAMGL. The drainage plan is to be in accordance with the principles and objectives outlined in the Commission's *Interim Position Statement – Urban Stormwater Management in WA – Principles and Objectives*. The plan must show expected runoff levels, the area of infiltration, method of infiltration and measures of control. Piped networks are kept as small as practicable and incorporate bottomless pits and gross pollutant and sediment trapping devices prior to outfall to infiltration areas incorporated into Public Open Space or Multiple Use Corridors.
10. The subject land is within an area that has been recognised as posing an acid sulphate soils risk. Proposals that may lead to the disturbance of acid sulfate soils should be planned and managed to avoid adverse effects on the natural and built environment, including human health and activities. Therefore, the Department

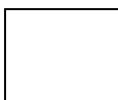
of Environment and EPA guidance on managing acid sulphate soils including its supporting documents should be adhered to.

- (3) adopt the Schedule of Submissions as contained in the agenda attachments;
- (4) forward the adopted revised Structure Plan with modifications to the Western Australian Planning Commission for endorsement under Clause 6.2.10 of Town Planning Scheme No. 3; and
- (5) advise those persons who made a submission of Council's decision.

COUNCIL DECISION

MOVED Cllr I Whitfield SECONDED Cllr M Reeve-Fowkes that Council:

- (1) adopt the Revised Structure Plan for Magnolia Gardens Estate Phases 2 and 3 dated 4 February 2004, in accordance with Clause 6.2.9 of Town Planning Scheme No. 3, subject to the following:-
 1. The proposed intersection roads within the subdivision to be modified to ensure Road Australian Standards are met.
 2. A notation being included on the Structure Plan advising that The temporary connection to Russell Road through Lot 458 to be closed upon the development of the Park 'N' Ride facility incorporating an alternative access to the subdivision.
 3. Notations being included on the Structure Plan advising of the road connection to Russell Road through Lot 458 is temporary and is to be closed when alternative access to Russell Road and the Station carpark are constructed.
 4. The road abutting Council's Recreation Reserve may be connected to Hammond Road in the future, depending on traffic and access requirements for the School and Recreation area.
 5. A Rehabilitation and Landscape Management Plan is required for the large public open space (POS) area to Council satisfaction.
 6. The existing MRS Railway Reserve which is part of MRS Amendment 1032/33 to be shown on the plan.



7. An 8 metre pedestrian accessway (PAW) connecting the internal road to the principal shared path within the Freeway reserve is to be provided along the northern boundary of the R40 Group Housing site located to the immediate north of the Railway Station land.
8. The proposed road located to the east of the primary school to be modified to include a link to the west to ensure better permeability and accessibility to the primary school. The road to be modified as shown on the plans.
9. Verge parking be provided on each of the roads abutting the school to provide for car parking to service the school and is to be designed and constructed to Council's satisfaction.
10. The right/left intersection between an access road and a laneway illustrated in the plan under the words "Phase 2" to be amended to ensure a 20 metre intersection separation is achieved in accordance with Australian Road Standards.

(2) advise the applicant of the following:-

1. Council requires road reserves and pavement widths to be designed in accordance with relevant Council policy.
2. The proposed showroom vehicular access is not permitted directly from Russell Road.
3. Groundwater availability in this region may be limited and it is suggested that they liaise with the Water and Rivers Commission in this regard. In the event that a groundwater allocation cannot be obtained for the irrigation of the public open space areas to be provided as part of the development, the configuration and function of such areas may require modification.
4. Public open space credits will not be able to be finally determined until detailed drainage design has been accepted by the City and any other relevant agency.
5. Disposal of stormwater must comply with the requirements of the South Jandakot Drainage Management Plan and the Environmental Management Programme for the South Jandakot Drainage Scheme.
6. Proposals for the subdivision should address issues relating to noise from the Kwinana Freeway and future



Perth to Mandurah railway.

7. Subdivision proposals for the Success Lakes Developer Contribution Area (DCA 2) will attract conditions requiring contributions towards the construction of Hammond and Russell Roads in accordance with the Development Contribution Plan- DCA 2 Success Lakes.
 8. The concept to develop a nursery within the high voltage transmission corridor is considered to have merit, but will ultimately be a matter for Western Power to determine. Preliminary advice is that a "Wholesale Nursery" is unlikely to be considered a suitable use.
 9. Stormwater from residential developments should not be directly discharged into any waterways, wetlands or existing open drains. The Commission will not accept any lowering of the groundwater as this will lead to an export of nutrients off-site and will also adversely impact upon remnant vegetation. Subsoil drains may be installed to control rises but should be located no lower than the Average Annual Maximum Groundwater Level (AAMGL). There should be separation of 1.2 metres between the floor level and AAMGL. The drainage plan is to be in accordance with the principles and objectives outlined in the Commission's *Interim Position Statement – Urban Stormwater Management in WA – Principles and Objectives*. The plan must show expected runoff levels, the area of infiltration, method of infiltration and measures of control. Piped networks are kept as small as practicable and incorporate bottomless pits and gross pollutant and sediment trapping devices prior to outfall to infiltration areas incorporated into Public Open Space or Multiple Use Corridors.
 10. The subject land is within an area that has been recognised as posing an acid sulphate soils risk. Proposals that may lead to the disturbance of acid sulfate soils should be planned and managed to avoid adverse effects on the natural and built environment, including human health and activities. Therefore, the Department of Environment and EPA guidance on managing acid sulphate soils including its supporting documents should be adhered to.
- (3) adopt the Schedule of Submissions as contained in the agenda attachments;
 - (4) forward the adopted revised Structure Plan with modifications to the Western Australian Planning Commission for endorsement



- under Clause 6.2.10 of Town Planning Scheme No. 3; and
- (5) advise those persons who made a submission of Council's decision.

CARRIED 8/1

Explanation

Condition 2 was modified to just require a notation on the Structure Plan. Condition 4 had an incorrect street name.

Background

ZONING:	MRS:	Urban
	TPS3:	Development Zone – Development Area 8 and within Development Contribution Area No. 2
LAND USE:	Vacant cleared land with some bush land.	
LOT SIZE:	Lot 19 – 2.504 ha, Lot 20 – 2.4964 ha and Pt Lot 24 & 25 approximate 49.8 ha	
AREA:	Approximate 49.8 ha	
USE CLASS:	N/A	

At its meeting held on 16 October 2001, Council resolved to adopt the Success Lakes (Magnolia Gardens) Structure Plan and to forward it to the Western Australian Planning Commission.

The Structure Plan was endorsed by the WAPC on 18 June 2002.

A Structure Plan for Lots 19 and 20 Hammond Road was adopted by Council at its meeting on 21 May 2002.

Submission

Development Planning Strategies, acting on behalf of Gold Estates of Australia (1903) Ltd is seeking approval for a Revised Structure Plan for Phase 2 and 3 of Magnolia Gardens Estate, Success (See Agenda attachment A – letter received from the applicant dated 20 November 2003). A revised plan dated 4 February 2004 and a facsimile dated 4 February 2004 was also submitted by the applicant. (Refer Agenda attachments).

A Traffic Review prepared by Sinclair Knight Merz dated 20 November 2003, was provided as part of the application.



Report

The Revised Structure Plan was submitted on 20 November 2003 for consideration. Council officers acting under the delegated authority of Council (APD42), determined that the plan was suitable to be advertised for public comment.

The advertised Revised Structure Plan provides for the following:-

- approximately 318 single residential lots ranging in density from R20 to R40;
- three R40 Grouped Housing sites;
- a 3.5 hectare primary school;
- 3.9315 hectares of public open space;
- approximately 4.6477 hectares for Success Railway Station Park and Ride (to be reserved under the MRS as Railway Reserve);
- a 2922m² site abutting Russell Road for potential showroom uses associated with the proposed nursery within the powerline corridor.

The proposed Revised Structure Plan provides for a variety of lots ranging in density from R20 to R40. Large traditional lots are proposed as well as small cottage lots with rear laneway access.

The small lots have been concentrated within the Phase 3 area in close proximity to the future Success Railway Station.

It is anticipated that Detailed Area Plans will be prepared for the majority of the small lots, particularly those that obtain vehicular access from a rear laneway or directly abut parkland. The location of visitor parking for the proposed rear laneway lots has been shown indicatively on the Revised Structure Plan.

A primary school site has been provided located adjacent to the district playing fields proposed to the north of the site on Council's Reserve. It is anticipated that school buildings would be located towards Wentworth Parade and the playing fields would be situated to the north of the site, adjacent to the proposed district playing fields to facilitate possible shared facilities. The parking area will be provided along Wentworth Parade frontage for better accessibility. The proponent was prepared to provide an additional road reserve along Wentworth Parade abutting the school to function as a service road to the car parking area of the school. However, in view of the Department of Education and Training's objection to the resultant reduction in the area of the school site, this approach has been changed to require the verge parking to be provided instead. Two roundabouts will be provided to ensure better safety and vehicular movements during pick up and drop off times.



The configuration and connections to the Park 'N' Ride site have been the subject of detailed consultation with the City of Cockburn, Department of Planning and Infrastructure and New MetroRail.

The proposed site generally accords with the area requested by the City of Cockburn in their submission on the MRS Amendment. The only modification to the site proposed by the City of Cockburn involves a minor relocation of the most northern boundary further southwards. Given the platform location with the Kwinana Freeway reserve, it is considered that the general location of the station carpark utilising a significant portion of the powerline corridor is acceptable.

As part of the assessment of an earlier proposed subdivision for Phase 2 of Magnolia Gardens, the City engaged Uloth and Associates to undertake a traffic study of the area. This traffic study highlighted that the proposed central north-south road connection between Wentworth Parade and Russell Road would carry in the order of 11,000 vehicles per day as it was a very attractive "short cut" between Hammond Road and Russell Road, given the deviation of Hammond Road to the west to its intersection with Russell Road.

It was agreed by all stakeholders that such traffic volumes through a local residential area were unacceptable and undesirable. Accordingly, a redesign was required to address the road layout and avoid creating a potential "rat run".

Gold Estates engaged Sinclair Knight Merz to review the traffic network and assess various alternatives. The study concludes that in order to restrict through traffic, the connection between Wentworth Parade and Russell Road should be as far east as possible and preferably combined with access to the future railway station as is shown on the previously advertised Structure Plan.

As shown on the enclosed plan, the large western area of public open space will be amalgamated with future POS to the west when that land is developed. The boundaries of the public open space have been determined in consultation with officers in order to protect remnant vegetation. This area of open space is proposed to be retained in a natural state with minor fringe landscaping to enhance the aesthetic appeal for future residents.

The Revised Structure Plan provides for all of the outstanding public open space contributions for Magnolia Gardens Estate, including the contribution required for Lots 19 and 20 Hammond Road. The public open space schedule provided demonstrates that 10% of the gross subdivisible area has been provided as public open space. A detailed assessment of the 10% provision will be further addressed as part of the future subdivision.



Lot 19 Hammond Road has been previously used as a poultry farm. A detailed site investigation was undertaken by ATA Environmental in August 2003 and submitted with the Revised Structure Plan. The site investigation revealed that limited areas of soil contained concentrations of zinc in excess of the EIL guidelines. These areas will be excavated and disposed of appropriately during the development of the site.

The Revised Structure Plan proposal was advertised for public comment for a period of 21 days in accordance with Clause 6.2.8.2(c), with the comment period concluding on 31 December 2003. Owners of property near the subject land were provided with a copy of the proposal and invited to comment. The local newspaper circulating in the locality carried an advertisement with details of the proposal. Various government agencies and servicing authorities were invited to comment. A total of ten submissions have been received. A schedule of submissions containing a summary of submissions and the recommended responses is included in the Agenda attachments.

At the time of writing this report, neither the Water Corporation, Department of Conservation & Land Management nor Transperth had responded to the referred plan. It is not uncommon for these particular agencies to fail to respond to a Structure Plan proposal within the statutory time frame required by Council's Scheme, however any comments they may subsequently make can be forwarded to the Western Australian Planning Commission for its consideration of the Structure Plan proposal.

There is nothing in the submitted Revised Magnolia Gardens Estate Structure Plan or the comments received during the advertising period that warrants rejection of the proposal. There are however, several design considerations that require reporting as follows:

Indicative Road Layout through Park 'n' Ride facility

This has been the result of discussions with DPI officers and it was determined that a thoroughfare connection was required between Russell Road and Wentworth Parade. An appropriate location is through the area designated for the Park 'N' Ride facility. However, this was objected to by the Public Transport Authority (PTA) on 19 December 2003.

Following extensive consultation, the applicant has submitted a modified plan which provides for a link road down the western side of the powerline corridor between Russell Road and Wentworth Parade. This satisfied the needs for general traffic movement and access to the future station carpark off Russell Road and resolves Engineering Department concerns regarding the location and number of access points onto Russell Road. The modified plan dated 4 February 2004,



showing the revised road system is included as an attachment to the Agenda.

It was discussed with PTA that the land for the road connection to Russell Road will be provided at no cost by the landowner and PTA will develop the road to its standards in the future to ensure the appropriate traffic movements and volumes of buses etc are accommodated. In the interim, an entry point will be provided between Russell Road and the area through Lot 458 (owned by CHS).

This access will be temporary to ensure the provision of buses and convenient access to the Freeway can be accommodated until the Park 'N' Ride access is developed. Upon development of the Park 'N' Ride access point incorporating a new access to the subdivision, the temporary access to Russell Road through Lot 458 will be closed.

Permeability next to School

The proposed plan is to be amended on the area east of the proposed primary school to ensure the vehicle and pedestrian permeability to the school is improved by linking the road to the west instead of the east.

MRS Railway Reserve

The plan needs to be modified to illustrate the existing MRS Railway Reserve which affects the eastern portion of the land in accordance with the previous adopted Structure Plan. The Railway Reserve is subject to the MRS Amendment 1032/33 which proposes an Urban Zone instead of Railway Reserve.

POS Areas

Council support for the Structure Plan should also be conditional upon the requirement that either drainage areas are deducted from the gross subdividable area (and thus reduce the POS liability, but no credit will be given for drainage) or retained within the subdividable area and credit be given on 50%. Either method is consistent with Policy APD30 and the difference between the two in terms of the area provide for unencumbered POS is marginal.

As to the issue of POS dimensions and function, there is no major objection to the proposed configuration and function of the POS to be provided. Given that active recreational POS facilities are to be provided in the future on the Council owned reserve on Hammond Road, the function of POS within the Magnolia Gardens development need only provide for passive recreation and for local neighbourhood parkland functions as shown.

There is no objection to the parkland concepts proposed as there is an appropriate mix of local parks, passive recreational areas and



conservation elements, however several matters will need to be addressed through the detailed design stage such as drainage requirements, revegetation, weed management, mosquito control and future maintenance.

Other Departments' Comments

The report and plan was referred to Council's Engineering, Parks and Environmental Services. Some of the comments are to be integrated as conditions as part of the required modifications to the Revised Structure Plan.

Engineering Services comments to be incorporated into Structure Plan:

- Expressed concerns regarding the number of access points to Russell Road, the need for roundabouts and parking along Wentworth Parade in front of the primary school and prohibition of access to the proposed showroom of Russell Road. These issues have been satisfactorily resolved in the submitted Modified Plan dated 4 February 2004.
- The Engineering Department also identify that under the words "Phase 2", there is a right/left intersection between an access road and a laneway which is closer than the recommended minimum separation distance. This will be required to be amended as a condition of approval.

Environmental Services comments:

- Large areas of the POS are identified as High Risk for Acid Sulphate Soils (ASS). Before any excavation in the area is undertaken, particularly for drainage, the proponents should undertake investigations to determine the risk of generating ASS from proposed works.
- A Rehabilitation and Landscape Management Plan will be required for the large POS area if it is to be retained as "Natural bushland/wetland". The understorey of the area is currently highly degraded and weed infested. Nutrient management of the drainage area and the playing fields will also be required to prevent degradation of wetland water quality. The plan should be prepared to the satisfaction of the City of Cockburn.

Comments from Adjoining Landowners:

Planning Consultants Taylor Burrell Barnett lodged a submission on behalf of the owner of Pt Lot 458 Russell Road (CHS Pty Ltd) and the owner of Lot 458 Hammond Road (Park Wind Holdings Pty Ltd). The consultants requested that the alignment of the shown east/west road through their landowner's property, be positioned further north to allow



a more orderly and efficient development layout on Lot 458 (ie: creating lots with appropriate depths). Comments were also received on behalf of Park Wind Holdings Pty Ltd requesting that a roundabout affecting their property be deleted.

These points are supported as detailed in the Schedule of Submissions. They have been discussed with the applicant and are shown on the Modified Structure Plan dated 4 February 2004.

Concluding Comments

It is recommended that the Magnolia Gardens Estate Revised Structure Plan be adopted subject to the modifications detailed above and other changes and advice notes listed in the recommendation.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To conserve the character and historic value of the human and built environment."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*
 - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
5. Maintaining Your Community Facilities
 - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians."*



- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and convenient and safe for public use."*

The Planning Policies which apply to this item are:

SPD1	Bushland Conservation Policy
SPD4	Liveable Neighbourhoods
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and/or Drainage Areas
APD26	Control Measures for Protecting Water Resources in Receiving Environments
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

Budget/Financial Implications

Nil

Legal Implications

N/A

Community Consultation

Affected landowners and relevant authorities were sent letters advising of the proposal and inviting comments by 31 December 2003. It was also advertised in the local paper on 16 December 2003. Ten submissions were received.

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

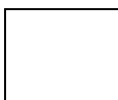
Nil.

14.11 (MINUTE NO 2310) (OCM 17/02/2004) - PARAPET WALLS TO GARAGE AND STOREROOM - LOT 83; 47 SHALLCROSS STREET, YANGETUP - OWNER/APPLICANT: DA & V BATTISTA (3315082) (ACB) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the proposal for a Garage and Storeroom at Lot 83 (No. 47) Shallcross Street Yangebup, subject to the following conditions:-



Standard Conditions:

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plans.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. No wall, fence or landscaping greater than 0.75 metres in height measured from the ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a 2 metre truncation.
4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7:00am Monday to Saturday and not at all on Sunday or Public Holidays.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

Special Condition:

7. The surface finish of the boundary wall abutting the adjoining lots to be constructed to Council satisfaction.

Footnotes:

1. The development is to comply with the requirements of the Building Code of Australia.
 2. In regards to Condition No. 7, the surface finish of the boundary wall of the adjoining lot should be to the satisfaction of the adjoining landowners and to be completed as part of the building licence. In the event of a dispute, the boundary wall must be constructed with a clean or rendered finish to the satisfaction of Council.
- (2) issue a Schedule 9 Notice of approval accordingly; and
- (3) advise those who lodged a submission of Council's decision.



COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

ZONING:	MRS:	Urban Zone
	TPS3:	Development, DA4, DCA4, R20 (Structure Plan)
LAND USE:		Residential
LOT SIZE:		843m ²
AREA:		Garage 69.15m ² /Storeroom 14.4m ²
USE CLASS:		Single (R-Code) House

The site contains an existing residential dwelling.

The City received an application for a garage/mezzanine and storeroom on 21 October 2003.

The proposal for the garage/mezzanine was referred to adjoining neighbours at No. 45 Shallcross Street and No. 30 Amalfi Crest, Yangebup for comment. The City received an objection from the owner of No. 45 Shallcross Street on the basis that there is already an existing 2m high retaining wall with a 1.8m fence on top at this location. A proposed 3.9m wall will result in a 5.9m wall at the rear, causing shade, adversely impacting on air circulation and giving a "boxed in" effect at the rear of the property.

Submission

The applicant seeks approval for a garage with an upper mezzanine level at the rear left corner of the site and a separate storeroom adjacent to the existing garage on the opposite side boundary. Both are proposed to have parapet walls located on the nil boundary line.

A locality map, a copy of the site plan and elevations are included in the agenda attachments.

Report

The application has been referred to Council for determination as it involves an appraisal of a submission of objection.



Storeroom

The storeroom parapet wall height of 2.4m, length of 6m and average of 1.6m complies with the R Codes. It is recommended that Council approve the storeroom parapet wall subject to the conditions contained in the recommendation.

Garage

The garage proposal incorporates an upper mezzanine level, which raises its overall height and scale. The applicant proposes a parapet wall height of 3.2m, length of 6.9m and average of 2.5m at this location. The garage exceeds the 3m height requirement under the R Codes and *Council Policy APD18 Outbuildings*.

The objectors property (No. 45 Shallcross Street) is elevated approximately 0.35m above the natural ground level of the subject site. Approximately 0.6m of the parapet will be visible from No. 45 Shallcross Street as a 0.8m high retaining wall with a 1.8m high fence on top exists along this boundary.

The objection received from No. 45 Shallcross Street raised the following concerns:

Already an existing 2m wall with a 1.8m fence on top at this location

It is recommended that this concern be dismissed as this concern is in regards to the rear property, not the subject site. The rear properties fronting Amalfi Crest are raised approximately 1.8m from natural ground level with retaining walls located at the rear of these properties. These retaining walls were developed as part of the original subdivision of the area.

“A proposed 3.9m wall will result in a 5.9m wall at the rear, causing shade, adversely impacting on air circulation and giving a “boxed in” effect at the rear of the property.”

It is recommended that this concern be dismissed, as the height of the proposed parapet wall is 3.2m, not 3.9m and will not cause an adverse impact on air circulation and overshadowing.

The parapet wall will not compromise solar access to No. 45 Shallcross Street as the shadow cast at midday, 21 June is approximately 4.3% of the site area. The Acceptable Development standards permit overshadowing of up to 25% of the site area.

The parapet wall will not result in a “boxed in” effect as the encroachment above the fence line is only 0.6m.

Conclusion

It is submitted that the parapet wall will have minimal impact on the amenity of the adjoining property as noted above. It is recommended



that Council approve the Garage Parapet Wall subject to the conditions contained in the recommendation.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*

The Planning Policies which apply to this item are:-

APD10 Discretion to Modify Development Standards
APD17 Standard Development Conditions and Footnotes
APD18 Outbuildings

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

The proposal was advertised to affected neighbouring properties of which 1 objection was received.

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

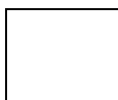
Nil.

14.12 (MINUTE NO 2311) (OCM 17/02/2004) - ANCILLARY ACCOMMODATION - LOT 509; 24 POMFRET ROAD, SPEARWOOD - OWNER/APPLICANT: G SCHMOLLENGRUBER (2205207) (ACB) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant retrospective approval to convert an outbuilding to



“Ancillary Accommodation” on Lot 509 (24) Pomfret Road Spearwood, subject to the following conditions:

STANDARD CONDITIONS

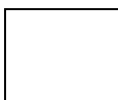
1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
4. One additional car parking bay being allocated and constructed in accordance with clause 5.2.2 of Town Planning Scheme No. 3 and 4.1.1 of the Residential Design Codes.
5. The ancillary accommodation must only be occupied by member(s) of the same family as the occupiers of the main dwelling.
6. A notification under Section 70A of the Transfer of Land Act is to be prepared in a form acceptable to the Council and lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot, prior to the commencement of development works. This notification is to be sufficient to alert prospective purchasers of the use and restrictions of the ancillary accommodation as stipulated under Condition 5 of this approval. The notification should (at the full cost of the applicant) be prepared by the Council's Solicitor and be executed by both the landowner and the Council.
7. The building is to be connected to sewer by a suitably qualified person.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. The toilet is to be mechanically ventilated; provide a minimum of 25 litres per second per fixture, but in no case less than 10 air changes per hour. A fan is to be flumed or ducted to external air and connected to an

electric switch. If visible from overlooking windows, the toilet shall be properly screened.

3. The bathroom is to be adequately lined with an impervious material and have an adequate ceiling compliant with the Health Act (Laundries and Bathrooms) Regulations 1971 and be equipped with a wash hand basin and either a shower in a shower recess or a bath.
 4. Floors in wet areas (bathroom, laundries and W.C.'s) to be properly surfaced and have an even fall to an approved floor waste outlet.
 5. The laundry (if applicable) is to be adequately enclosed and roofed; lined with an impervious material, have either two wash troughs and one copper; or a washing machine and either a wash trough or a sink; and a clothes drying facility of either an electric clothes drier or not less than 20 metres of clothesline erected externally.
 6. The kitchen (if applicable) is to be equipped with a sink with minimum dimensions of 380mm long x 300mm wide x 150mm deep, and a stove and an oven installed in accordance with the Office of Energy and provided with mechanical extraction, exhaust air shall be exhausted at a rate of at least 50 litres per second, carried to the outside air and boxed throughout.
 7. All fixtures in the bathroom, laundry and kitchen are to be connected to an adequate supply of hot and cold water.
 8. The interior of the building is to be internally clad and weatherproofed.
 9. The building is to be properly ventilated; through compliance with the Building Code of Australia requirements, including the provision of natural ventilation; or mechanical ventilation or air-conditioning system complying with AS 1668.2-1991.
 10. The building is to have a damp proof membrane provided under the concrete slab.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant; and
 - (3) advise the owner that because the Ancillary Accommodation has been constructed, the Council is unable to issue a building licence retrospectively.



COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

ZONING:	MRS:	Urban Zone
	TPS3:	Residential R20
LAND USE:	Residential	
LOT SIZE:	728m ²	
AREA:	72.8m ²	
USE CLASS:	Ancillary Accommodation	

The City issued a Building Licence for a Residential Dwelling in 1969 and an Outbuilding in 1989.

The Outbuilding has been converted to Ancillary Accommodation without Council Approval. The owner now seeks retrospective planning approval for a Change of Use from "Outbuilding" to "Ancillary Accommodation."

Submission

On 6 January 2004, the owner lodged a planning application for the existing Ancillary Accommodation.

In a letter received 19 January 2004, the owner stated that after 2 years of using the shed as a hobby workshop, music room and study, her husband spent so much time in the room that he decided to have a toilet, shower and basin installed without realising approval was required for such modifications.

The accommodation is located within the northeast corner of the property with walls along the nil boundary line. The accommodation has a dimension of 9.96m by 7.31m and an area of 72.8sqm.

A plan depicting the proposal is included in the Agenda attachments.

Report

Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3 (the Scheme), provided the development conforms to the provisions of the Scheme.



The existing ancillary accommodation however, does not conform with clause 5.2.2 of the Scheme whereby residential development must conform to the provisions of the Residential Design Codes. The proposal does not comply with clause 4.1.1 of the R Codes as follows:

- The proposal exceeds the maximum plot ratio area of 60sqm, and
- Does not provide an additional car space.

Council has the discretion to assess the application under the Performance Criteria as follows:

4.1.1 A1 "Ancillary dwellings that accommodate the needs of large or extended families without compromising the amenity of adjoining properties."

The Ancillary Accommodation is located at the rear of the property with no separate access other than the existing residence. The ancillary accommodation has existed on the site since 1971 and has served the needs of the family without compromising the amenity of adjoining properties. It is considered that the 12m² variation in floor space in this context can be supported. In addition, the proposal can facilitate an additional car bay at the front of the existing dwelling.

The proposal merely seeks to legalise the existing development under Town Planning Scheme No. 3.

Conclusion

No further action is recommended under Town Planning Scheme No. 3 in respect to the unlawful development, given that the owner has now sought approval and that the existing ancillary accommodation does not adversely affect the occupiers, inhabitants of the locality or the likely future development of the locality.

It should be noted that a building licence for the existing ancillary accommodation cannot be issued retrospectively and the owner should be advised of this.

Strategic Plan/Policy Implications

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

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



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

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes
APD33 Town Planning Scheme No. 3 Provisions

Budget/Financial Implications

Nil

Legal Implications

Residential Design Codes 2002
Town Planning Scheme No. 3
Town Planning and Development Act

Community Consultation

Nil

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

Nil.

14.13 (MINUTE NO 2312) (OCM 17/02/2004) - RETROSPECTIVE CHANGE OF USE - MOTOR VEHICLE REPAIR OPERATION - 2/6 COCOS DRIVE, BIBRA LAKE - OWNER: ANDROM PTY LTD; STRONG NOMINEES PTY LTD - APPLICANT: DAVID BELL (4412629) (CP) (ATTACH)

RECOMMENDATION

That Council:

- (1) grants retrospective approval for the change of use at Lot 1 (Unit 2/6) Cocos Drive, Bibra Lake, for the purpose of a motor vehicle repair business subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.



3. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
4. Where petrol, benzine or other inflammable or explosive substances or grease, oil or greasy/oily matter may be discharged, a sealed washdown area and a petrol/oil trap (gravity separator) must be installed and connected to the sewer, with the approval of the Water Corporation and Department of Environment, Water and Catchment Protection.

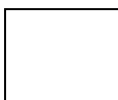
FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
 2. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
 3. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 4. Bin storage facilities to be provided to the satisfaction of the Council's Health Service. Such facilities are to be enclosed, graded to a central drain, connected to the sewer and provided with a hose cock.
 5. In terms of Condition 4, flooring, drains and collection sumps are to be sealed with protective coatings that resist damage or deterioration resulting from spillage of these substances.
- (2) enforces the conditions of development approval dated 18 May 1995, relating to site landscaping and the provision of car parking bays; and
- (3) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0



Background

ZONING:	MRS:	Industrial
	TPS3:	Industry
LAND USE:	3 Unit factory unit development	
LOT SIZE:	Strata lot 2 = 376m ²	
USE CLASS:	Motor Vehicle Repair - Permitted	

Three factory units were constructed upon the subject land following development approval being granted by the City on 18 May 1995. The units were subsequently the subject of a survey strata approval. Unit 2 is the subject of the current application.

Submission

An application has been lodged for the approval of the operation of the business known as Swedish Wreckers from the subject land. Although the application was submitted in December 2002, it has been on hold pending the receipt of information, but the use itself has commenced. As such, the application is retrospective.

The business specialises in servicing/repairing Volvo cars, but in doing so, utilises in part, components from dismantled Volvo's. The business is run solely by the applicant and is contained entirely within the factory unit building.

Report

The dismantling of Volvo's is evidently only a minor or ancillary part of the business, which is done as a source of second hand parts for the repair side of the operation or which are sold as spare parts. As such, the use class is considered to constitute "motor vehicle repair".

The use is confined to being undertaken within an existing factory unit building on the site. Central to the consideration of this application is the fact that the operation is staffed by one person only. This in turn limits the level of activity onsite and the consequential carparking implications. On this basis therefore, there is sufficient onsite carparking to accommodate the 5 bays needed for a motor vehicle repair use under Town Planning Scheme No.3 ("TPS3").

The current state of site landscaping is deficient and there appears to be a carbay required as part of the original development approval yet to be constructed. These are issues best addressed by the site owners under the umbrella of the previous development approval as opposed to addressing as part of this "change of use" application. Separate action is therefore recommended to this effect.



In general, the site and building are considered appropriate for the use proposed, given the scale and type of activity of the business. Approval is recommended subject to the conditions listed above, in addition to the initiation of enforcement action relating to the conditions of the previous planning approval.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the character and historic value of the human and built environment."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

Not advertised for public comment.

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

Nil.



14.14 (MINUTE NO 2313) (OCM 17/02/2004) - R-CODE VARIATION - PROPOSED RETAINING WALL FOR RESIDENTIAL DWELLING - LOT 175; 93 GLEN IRIS DRIVE, JANDAKOT - OWNER: ADHI SUBRATA AND ENI TJAHJANINGSIH HALIM - APPLICANT: COLLIER HOMES (5517377) (CP) (ATTACH)

RECOMMENDATION

That Council:

- (1) approves the application for construction of a retaining wall and dwelling on Lot 175 (93) Glen Iris Drive Jandakot, subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am Monday to Saturday, and not at all on Sunday or Public Holidays.
4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing and appropriate measures shall be implemented within the time and in the manner directed by the Council in the event that sand or dust is blown from the site.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

SPECIAL CONDITIONS

7. The height of the proposed retaining wall and the finished floor level of the proposed dwelling must be set at a maximum height of 11.85m and 12.0m respectively, with reference to the levels shown in red on the approved site plan.
8. The applicant engaging a suitably qualified practicing



Engineer to certify that the whole of the lot is suitable for the approved development, as well as the extent of any filling of the land to the satisfaction of the Council prior to the issuance of a Building Licence and before the commencement or carrying out of any work or use authorised by this approval.

9. 1.8m high screen fencing shall be erected along the western boundary of the site to the extent identified on the plan attached to this approval.

FOOTNOTES

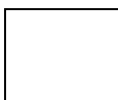
1. Until Council has issued a Certificate of Classification under Regulation 20 of the Building Regulations 1989, there shall be no approval to use the building for the purposes of the development herein conditionally approved and the land shall not be used for any such purpose.
 2. The development is to comply with the requirements of the Building Code of Australia.
 3. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 4. The development site should be connected to the reticulated sewerage system of the Water Corporation before commencement of any use.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant; and
- (3) advise those who lodged a submission of Council's decision.

COUNCIL DECISION
 MOVED Clr A Tilbury SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Vacant land	



LOT SIZE:	705m ²
USE CLASS:	single (R Code) House -Permitted Use

Submission

Approval has been sought for the development of a dwelling on Lot 175 (93) Glen Iris Drive, Jandakot that necessitates the construction of a retaining wall along a portion of the western side boundary adjoining Lot 176 (95) Glen Iris Drive.

A combination of a brick fence and limestone retaining walls exist along the common boundary at present, constructed for the adjoining dwelling on Lot 176, which has a lower ground level than Lot 175.

The proposed Finished Floor Level (FFL) of the dwelling on the subject land will be at approximately 12.65m as shown on the site plan submitted, while the retaining wall will be erected to a height of 12.5m on the boundary. The retaining wall will be 200mm higher than the top of the existing retaining wall located at the front of the common boundary, being approximately 1.9m above the ground level on Lot 176.

As the retaining wall exceeds 0.5m above natural ground level at the boundary, an application for an R-Codes variation is required.

Report

The application was advertised for comment whereupon one submission was received, being from the owners of the adjoining Lot 176, objecting to the proposal on the following grounds:

1. Concerns the proposed finished floor level of the dwelling will have a detrimental effect on their property amenity and neighbourhood streetscape.
2. Concerns about the effects of overshadowing, reducing the amount of natural light to their outdoor entertaining area.
3. The subject land has apparently been filled by at least 1.5m over recent years above natural ground level.
4. Concerns about the extent of variation sought.
5. Concerns about overlooking from the proposed upstairs balcony over the swimming pool at the front of Lot 176.

The submitters would be prepared to reconsider their position if the finished floor level of the dwelling was reduced to 12m from the proposed 12.65m.

In terms of the concerns listed above, the following matters are noted:

- The effects of the proposed retaining wall on the owners of Lot 176 are accentuated by the differences in existing ground levels



between the two properties. Lot 176 is naturally lower lying than the subject site, which means some degree of retaining is to be expected.

- The proximity to the boundary of major openings to habitable rooms on the ground floor of the proposed dwelling will also necessitate screen fencing to be erected on top of the proposed retaining wall, thus potentially increasing overshadowing of that property. Notwithstanding this, the solar access requirements of the R-Codes have been complied with.
- A site inspection revealed that some fill may have been placed on the land, including against the existing boundary wall. No evidence is currently available to confirm the exact extent of fill involved, but it is understood the applicant is arranging for an engineer to inspect the land for this purpose. If filled without Council approval or not being part of subdivisional works, then the “natural ground level” of the land would actually be lower than the levels shown on the site plan.
- If filling has occurred on the site, the “natural ground level” will be lower than currently indicated, thus increasing the extent of the variation required to build at 12.65m FFL.
- Another indicator of filling of the site is that the floor level of the existing dwelling on the adjoining land to the east (Lot 174 (91) Glen Iris Drive) is lower than the dwelling proposed on Lot 175 even though that land is more elevated.
- The swimming pool on Lot 176 is located within the primary street setback area. As such, the R-Codes do not require screening for privacy reasons.

Little justification has been provided in support of the variation to demonstrate compliance with the relevant Performance Criteria of the R-Codes (refer to Agenda Attachments).

This, in addition to a lack of information on the natural ground levels of the site, makes it difficult to recommend favourably for the variation sought. As such, it is recommended that the floor level of the proposed dwelling be lowered to 12m and the retaining wall be reduced in height by 0.65m accordingly.

Strategic Plan/Policy Implications

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



1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the character and historic value of the human and built environment."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes
 APD32 Residential Design Codes

Budget/Financial Implications

Nil

Legal Implications

Possibility of an appeal against Council's decision.

Community Consultation

Application was advertised for comment.

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

Nil.

14.15 (MINUTE NO 2314) (OCM 17/02/2004) - PROPOSED STRUCTURE PLAN - LOT 1 HAMMOND ROAD, SUCCESS - OWNER: AUSTRALAND HOLDINGS LTD - APPLICANT: ROBERTS DAY GROUP (9659) (JW) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the revised Local Structure Plan and report for Lot 1



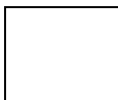
- Hammond Road Success;
- (2) advise the proponent that Council is prepared to adopt the proposed Structure Plan for Lot 1 Hammond Road subject to:
 - 1. Finalisation of satisfactory arrangements with the Water Corporation regarding the ongoing management, maintenance and operational requirements for the bypass channel.
 - 2. The land required for the bypass channel, together with the balance public open space (POS) area, being vested as "Reserve for Recreation & Drainage" and ceded to the Crown free of cost.
 - 3. Provision of POS map showing the exact areas of the buffer lake, bypass channel, 30 & 50m wetland buffer, and the vesting arrangements and the accreditation being sought.
 - 4. The Structure Plan report being modified to provide consistent information on Public Open Space provision.
 - 5. The Structure Plan report being modified to detail the temporary drainage arrangements proposed, including an undertaking to rehabilitate the area once the drainage is redirected to the bypass channel.
 - (3) adopt the Schedule of Submissions and advise the Western Australian Planning Commission and those persons who previously made a submission on the original Structure Plan, of Council's decision.

COUNCIL DECISION
 MOVED Clr A Tilbury SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

ZONING:	MRS:	URBAN
	TPS3:	Development Zone and falls within Development Area 8 and Development Contribution Area 2.
LAND USE:	VACANT	



LOT SIZE:	14 ha (approx)
USE CLASS:	N/A

Background

This report concerns a revised structure plan and report prepared by Roberts Day Group on behalf of Australand Holdings for land located within the Success Lakes Development Area – DA8 (See Agenda attachments for proposal location details).

The Structure Plan was originally submitted in June 2003 for consideration and was advertised for public comment. Council at its meeting held on 16 September 2003, considered the proposal and resolved not to adopt the proposed Structure Plan for Lot 1 Hammond Road due to the unresolved Russell Road Buffer Lake (RRBL) design and land requirement issues (including the bypass channel) together with various other planning issues.

Submission

A revised Structure Plan and report was received on 23 December 2003.

The revised Structure Plan shows a modified bypass channel (see the Agenda attachment). The area required for the drainage bypass channel has been reduced compared to the original proposal.

Advertising the revised Structure Plan for public comment is not required given that there is no change made on the proposed land use and development layout as shown in the originally advertised Structure Plan.

Report

The revised Structure Plan and report has appropriately addressed the following issues required in Council's September 2003 resolution:

- Land requirement for Hammond Road Realignment Other Regional Road Reserve.
- The balance of the lot between existing and future Hammond Road being incorporated into the Structure Plan and not treated as a deduction from the POS provision.
- The dual use path and footpath being amended and clearly shown on the Structure Plan and referenced in the report.
- Local and district community facility provisions.
- Indicative traffic management design for the proposed "4 way intersection" on Hammond Road realignment.
- Street hierarchy and likely traffic volume on the entry road.

Four issues that require further consideration are as follows:



Land Required for Russell Road Buffer Lake

Council at its September meeting resolved the following:

- “1. a) *Council is not prepared to adopt the proposed Structure Plan for Lot 1 Hammond Road until the design and land requirements for Russell Road Buffer Lake (RRBL) (including the bypass channel) has been finalised.*
- b) *the Structure Plan and report will need to be reviewed and appropriately modified following the completion of the RRBL design (including the bypass channel) by the Water Corporation.”*

The south-western corner of Lot 1 Hammond Road contains portion of the wetland known as Lake Copulup. The Water and Rivers Commission has classified the lake as a sumpland with an assigned management category of “Resource Enhancement”.

Lake Copulup is required for the future Russell Road Buffer Lake (RRBL), which is to be constructed in accordance with the requirements of the South Jandakot Drainage Management Plan 1990 and the Environmental Management Programme for the South Jandakot Drainage Management Scheme 1991, as well as Southern Suburbs District Structure Planning Area: Russell Road Arterial Drain Scheme prepared by David Wills & Associates for Council.

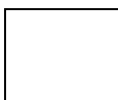
The originally submitted Structure Plan has taken into account the role of Lake Copulup as a regional drainage facility. However, the difficulty in assessing the proposal was that the extent of land required for the RRBL was not known as the design had not been finalised by the Water Corporation. Therefore it was not possible at that stage, to endorse the manner in which the proposal delineated the land requirements for the future RRBL bypass channel and POS area.

The proponents have undertaken further consultation with Water Corporation in regard to the design and land requirement issues of the RRBL.

A letter from Water Corporation dated 3 October 2003 states:

“The proposed constructed wetland layout for future Russell Road Buffer Lake (RRBL) as shown on DEC drawing SCCAUS 08 SK-01, generally conforms to the concept of the Water Corporation’s (WC) preliminary design.....”

“Drawing SCCAUS08 SK-01 correctly represents the area required, but the bypass channel location in future POS must first be jointly approved by the City of Cockburn (COC) and the WC’s Perth Region



Asset Management Section, based on an acceptable operating and maintenance responsibility arrangement.”

“As the design criteria for the required area of the RRBL is proportional to the surface runoff catchment area directly connected by drainage conduits, and since the DWA drainage concept reduces the overall connected surface runoff catchment, the revised size of RRBL and required land will be less. “

At this stage, Council’s Russell Road Arterial Drain Scheme prepared by David Wills and Associates has not been approved by the Department of Environment. Therefore the RRBL design has not been revised and finalised by Water Corporation. However, given that the land required for RRBL is likely to be less than that shown in the proposal as confirmed in Water Corporation’s letter, it is recommended to adopt the delineated land requirements for the future RRBL for the planning of Lot 1. This is based on the consideration that the finalised RRBL design would not result in reducing the area of the adjoining public open space and sacrificing the future residents’ recreational facilities.

Drainage Bypass Channel Issues: Location, Management and Dimension

Council officers previously advised the proponents that Council would not support the bypass channel being located within the POS area given that the bypass channel is an integral part of the regional drainage system and should be managed and maintained by Water Corporation.

A meeting was held in December 2003 between the proponents, Council officers and representatives from the Water and Rivers Commission (W&RC) and Department for Planning and Infrastructure (DPI). A landscaping plan prepared for Lot 1 Hammond Road was presented in the meeting. The plan shows the bypass channel will be incorporated in the public open space area and will be vegetated with local species. The Water Corporation has also confirmed that flows in the bypass will be infrequent and only for short periods given it has a piped outlet.

An efficient operating and maintenance responsibility arrangement is essential for the proper function of the future bypass channel and POS. Council planning officers indicated that they would be prepared to support the bypass channel being located within the public open space subject to:

- Written agreement from the Water Corporation that Cockburn Council will be the responsible authority for the future management and maintenance of the bypass channel,



- The land required for the bypass channel, together with the balance POS area, being vested as "Reserve for Recreation & Drainage" and ceded to the Crown free of cost.
- No credits will be applied to the bypass channel for POS calculation purposes given its role mainly as a drainage facility.

The Water Corporation, by letter dated 27 January 2004, advised:

- It is prepared to enter into a Memorandum of Understanding with Council to formalise the joint management responsibilities for the bypass channel area.
- Under its legislation the Water Corporation will be required to advise the City of any works to be undertaken with the bypass channel and that any disturbance will be reinstated to the satisfaction of the City.

Based on the above, it is recommended that the bypass channel be accepted as part of the estates open space drainage area to be managed and maintained by the City.

POS

Council at its September meeting, resolved:

- c) *the POS provision schedule will need to be reviewed and appropriately modified following the completion of the RRBL design (including the bypass channel) by the Water Corporation, and addressing related issues;*

A revised POS provision schedule was submitted, which shows 10.18% contribution of the POS. The revised POS provision schedule reflects the following resolution made at Council's meeting of 21/10/2003:

- land requirement for Hammond Road reserve realignment;
- the balance of the lot between existing and future Hammond Road not being treated as a deduction from the POS provision.

The revised POS Schedule also shows:

- The bypass channel has been deducted from the POS calculation and no credits have been sought;
- 50% credit has been sought for the 30m wetland buffer and 100% credit for the balance POS area, including the 50m wetland buffer which was required by DEP and WRC for the Resource Enhancement category wetland.



The revised POS Schedule is considered acceptable. It is recommended that a map be provided, which clearly shows the exact areas of the buffer lake, the bypass channel, the 30 & 50m wetland buffer, and the vesting arrangements and the accreditation being sought.

Temporary Drainage Arrangements

Council at its September meeting resolved:

- d) *the temporary drainage arrangements proposed, need to be detailed in the Structure Plan Report, together with undertaking to rehabilitate the area once the drainage is redirected to the bypass channel.*

The consultants have advised that a temporary drainage area will be provided to Council's satisfaction and the area will either be incorporated into the bypass channel or the open space and satisfactorily rehabilitated when the buffer lake is constructed.

Summary

The revised Structure Plan generally addresses the Council's resolution made at its meeting on 16 September 2003.

Accordingly, it is recommended that Council resolve to adopt the revised Structure Plan for Lot 1 Hammond Road, Success and to forward the Schedule of Submissions included as an attachment to the Agenda, to the Western Australian Planning Commission for its endorsement.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
5. Maintaining Your Community Facilities
 - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*



- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

The Planning Policies which apply to this item are:-

SPD1	Bushland conservation Policy
SPD3	Native Fauna Protection
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and/or Drainage Areas
APD26	Control Measures for Protecting Water Resources in Receiving Environments
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

Budget/Financial Implications

N/A

Legal Implications

Nil

Community Consultation

The Structure Plan was advertised for 28 days in accordance with the requirements of TPS No. 3.

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

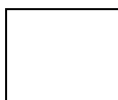
Nil.

14.16 (MINUTE NO 2315) (OCM 17/02/2004) - RE-CONSIDERATION OF SPECIAL CONDITION 21 - CHILD CARE CENTRE - LOT 48 MURIEL COURT, JANDAKOT (551319) (MR)

RECOMMENDATION

That Council:

- (1) issue a revised approval for the child care centre on Lot 48 Muriel Court Jandakot, with special condition 21 issued on 17 December 2003 being substituted with the following revised condition as outlined below, subject to receiving a fresh application from the applicant.



- (2) adopt the following condition as a substitute for special condition 21:-
- “21. The owner entering into a Deed of Agreement with the Council (caveatable interest) as follows:-
- (a) following the subdivision of Lot 48, to create a lot that will be occupied by a child care centre, the balance portion of land will not be further subdivided or developed until a Structure Plan for Development Area 19 (“DA19”) has been adopted by the Council and endorsed by the Western Australian Planning Commission;
- (b) the owner of the lot intended to accommodate a child care centre, is to undertake to pay pro rata development contributions towards infrastructure costs within DA19 (ie road upgrading, drainage and services), when and as reasonably determined by Council. Cash-in-lieu of public open space will also be payable upon new titles being created for the child care centre lot.
- (3) waive the application fee as the proposal represents a reconsideration of a condition; and
- (4) issue a Schedule 9 notice of approval upon receipt of a fresh Schedule 6 and MRS Form 1 application forms.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

ZONING:	MRS:	Urban
	TPS3:	Development Zone (DA19)
LAND USE:	Existing House and outbuildings	
APPLICANT:	Koltasz Smith & Partners	
OWNER:	Goldzen Corporation	
LOT SIZE:	8219m ²	
USE CLASS:	Child Care Centre	



Council at its Ordinary Meeting on 16 December 2003, resolved to approve the child care centre subject to various conditions which included Special Condition 21 as follows:-

“9. The owner entering into a caveatable agreement with the Council giving a legally binding commitment that Lot 48 (No 2) Muriel Court Jandakot will not be subdivided until Council has adopted a Structure Plan and received endorsement of the Structure Plan from the Western Australian Planning Commission for Development Area 19.”

Submission

The applicant seeks the Council’s consent to modify Special Condition 21 for the following reason:-

“Our client has requested a modification to this condition. In essence our client wishes to subdivide the land, which will allow ABC Developmental Learning Pty Ltd to settle on the subject land. It is proposed that a memorial be placed on the balance of the land, which will state " That no development shall occur on this land until such time as a Structure Plan for the area is adopted by Council and endorsed by the Western Australian Planning Commission."

Report

There are no objections from a planning point of view to the modification of special condition 21 of approval, provided that the balance portion of land following the subdivision of the child care centre (when developed), is not further subdivided or developed until a Structure Plan has been adopted by Council and endorsed by the Western Australian Planning Commission. The subdivision into two lots can be supported on the basis that it would not prejudice the preparation of a Structure Plan that will guide subdivision and development in Development Area 19.

If the subdivision of Lot 48 into two lots is supported by Council, a legal agreement will need to reflect the above requirement and for the new owner of the child care centre development to undertake to pay a pro rata contribution towards infrastructure costs (ie road upgrading, drainage) as reasonably determined by Council. Cash-in-lieu of the provision of public open space will also be required for the new lot containing the future child care centre.

Strategic Plan/Policy Implications

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



2. Planning Your City
- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

Budget/Financial Implications

Council's decision is appealable. Legal representation will be required if an appeal is lodged with the Tribunal.

Legal Implications

Town Planning Scheme No 3

Community Consultation

The Council previously advertised the proposed Child Care Centre which attracted submissions both for and against the proposal.

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

Nil.

14.17 (MINUTE NO 2316) (OCM 17/02/2004) - PROPOSED SCHEME AMENDMENT NO. 10 - COOLBELLUP TOWN CENTRE - LEN PACKHAM RESERVE, COMMUNITY CENTRE AND PART OF CORDELIA AVENUE, COOLBELLUP - OWNER: VARIOUS (93010) (JLU/AJB) (ATTACH)

RECOMMENDATION

That Council:

- (1) support the development of the new Coolbellup Primary School on the south western portion of Len Packham Reserve, subject to receiving written agreement from the Department for Education and Training on the following;
 1. An area of open space equivalent to that taken from Len Packham Reserve is to be provided within the existing school sites to ensure there is no net loss of open space in Coolbellup. This is separate and in addition to the open space requirement that will apply to the subdivision and development of the school sites.
 2. To enter into an agreement for shared facilities which sets out the responsibilities of each party and use protocols which ensures the needs of both the Education Department and Council on behalf of current user groups are accommodated.



3. Existing Council infrastructure affected by the school site will be replaced in an agreed location on Len Packham Reserve at no cost to Council.

(2) grant final adoption to the following amendment with modifications that reduces the 'Development' Zone to only cover that portion of Len Packham Reserve required for the new school buildings and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)
 RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

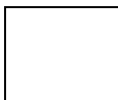
AMENDMENT NO. 10

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

1. Including the following in Schedule 11 – Development Areas of the Scheme:

Ref. No.	Area	Provisions
DA 7	Lots 1, 2 and 3 on Diagram 34240 and Lot 101 on Diagram 83601 Coolbellup Avenue, Reserve 30189 and portion of Reserve 30190 Cordelia Avenue Coolbellup and that portion of Cordelia Avenue between Coolbellup Avenue and Rosalind Way	1. An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development. 2. To provide for an integrated town centre with a mix of residential, commercial, recreation, community and education facilities, in accordance with an approved Structure Plan.

2. Amending the Scheme Map to rezone Lots 1, 2 and 3 on Diagram 34240 and Lot 101 on Diagram 83601 Coolbellup Avenue, Reserve 30189 and portion of Reserve 30190 Cordelia Avenue and that portion of Cordelia Avenue between Coolbellup Avenue and Rosalind Way Coolbellup, from 'Local Centre', 'Public Purpose – Civic', 'Parks and Recreation' and 'Local



Road' to 'Development' Zone and under "Development Area – DA 7".

- (3) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (4) request approval from the Department for Planning and Infrastructure – Land Asset Management Services to excise an agreed area from Reserve 30190 (Len Packham Reserve) to be vested in the Education Department for the purpose of a primary school once the limits of the school site have been defined;
- (5) pursue Town Centre - Scenario 3 as the preferred option for the redevelopment of the town centre;
- (6) establish a consultative process to include landowners and lessees within the commercial precinct, government agencies and Council, to further investigate Town Centre Scenario 3 and to develop an implementation strategy;
- (7) establish a consultative process to include community groups, school P & C's, government agencies and stakeholders and Council, to discuss the possibility of developing that maximises the opportunities for shared use;
- (8) advise the Department for Education and Training that it supports the development of the Koorilla site either in part or total, for a retirement village/aged housing and this should be addressed as part of the rezoning proposal for the site;
- (9) advise the Minister for Education of Council's decision accordingly; and
- (10) advise those who made submissions of Council's decision accordingly.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Cllr I Whitfield that Council:

- (1) support the development of the new Coolbellup Primary School on the south western portion of Len Packham Reserve, subject to receiving written agreement from the Department for Education and Training on the following;
 1. An area of open space which will be in the order of 2 hectares which is equivalent to that taken from Len Packham Reserve is to be provided within the existing school sites to ensure there is no net loss of open space in Coolbellup. This is separate and in addition to the open



space requirement of 1.6496 hectares that will apply to the subdivision and development of the school sites.

2. To enter into an agreement for shared facilities which sets out the responsibilities of each party and use protocols which ensures the needs of both the Education Department and Council on behalf of current user groups are accommodated.
3. Existing Council infrastructure affected by the school site will be replaced in an agreed location on Len Packham Reserve at no cost to Council.

(2) grant final adoption to the following amendment with modifications that reduces the 'Development' Zone to only cover that portion of Len Packham Reserve required for the new school buildings and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission:-

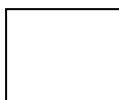
TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)
 RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

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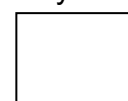


2. Amending the Scheme Map to rezone Lots 1, 2 and 3 on Diagram 34240 and Lot 101 on Diagram 83601 Coolbellup Avenue, Reserve 30189 and portion of Reserve 30190 Cordelia Avenue and that portion of Cordelia Avenue between Coolbellup Avenue and Rosalind Way Coolbellup, from 'Local Centre', 'Public Purpose – Civic', 'Parks and Recreation' and 'Local Road' to 'Development' Zone and under "Development Area – DA 7".
- (3) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (4) request approval from the Department for Planning and Infrastructure – Land Asset Management Services to excise an agreed area from Reserve 30190 (Len Packham Reserve) to be vested in the Education Department for the purpose of a primary school once the limits of the school site have been defined;
- (5) pursue Town Centre - Scenario 3 as the preferred option for the redevelopment of the town centre;
- (6) establish a consultative process to include landowners and lessees within the commercial precinct, government agencies and Council, to further investigate Town Centre Scenario 3 and to develop an implementation strategy;
- (7) establish a consultative process to include community groups, school P & C's, government agencies and stakeholders and Council, to discuss the possibility of developing that maximises the opportunities for shared use;
- (8) advise the Department for Education and Training that it supports the development of the Koorilla site either in part or total, for a retirement village/aged housing and this should be addressed as part of the rezoning proposal for the site;
- (9) advise the Minister for Education of Council's decision accordingly; and
- (10) advise those who made submissions of Council's decision accordingly.

CARRIED 8/1

Explanation

Minor amendments to point (1) 1. which are self explanatory.



Background

ZONING:	MRS:	Urban
	DZS:	Local Centre, Community Purpose-Civic and Parks and Recreation
LAND USE:	Shopping Centre, community facilities, parks and recreation	
LOT SIZE:	Total area approximately 10.6ha	

Background

The revitalisation of Coolbellup Town Centre Precinct and the proposal to develop a new primary school has a lengthy history. The following outlines the background to date:

- 20 November 2001 – Council agreed to request the Department for Housing and Works and the Department for Planning and Infrastructure undertake a joint planning study on the Coolbellup Town Centre Precinct.
- June 2002 – The Minister for Education announced a review of the three schools in Coolbellup which involves the closure of the three schools and construction of one new school.
- October 2002 - Len Packham Reserve was identified as the preferred site for the new primary school through the Education Department Local Area Education Planning consultative process.
- November 2002 – The Education Department requested Council consider an integrated school on Len Packham Reserve.
- December 2002 – Council resolved to advise the Education Department that it would support the proposal for a new primary school for Coolbellup to be constructed on portion of Len Packham Reserve to replace the existing three primary schools subject to a number of conditions.
- 16 June 2003 – Presentation by Council's Manager Planning Services to a public meeting organised by the Coolbellup Community Association to discuss the proposed use of a portion of Len Packham Reserve for the new school. Details of the proposed community consultation process were provided at the meeting, which included:
 - July 2003 – Report to Council on matters raised 17 December 2002, with recommendation to initiate an amendment to TPS No. 3.
 - August-October 2003 – Formal advertising of the proposal for public comment, including advertisements in paper, letters to



- adjoining owners and community groups, signs on site, manned display and information sheet/survey to the whole of the suburb.
- September 2003 – Enquiry-by-Design Workshop to include representatives from Coolbellup community organisations, the commercial centre and members of the public, with the outcomes from the Workshop being advertised during the latter part of the scheme amendment process so that the community can use this in formulating their response on the Scheme Amendment.
 - November 2003 – Consideration of submissions by Council with formal responses to DOLA, WAPC, EDWA and community feedback.
- 15 July 2003 – Council resolved to initiate Amendment No.10 which proposes to rezone the Coolbellup Town Centre precinct including Len Packham Reserve to 'Development' Zone requiring the preparation of a Structure Plan.
 - 15 September 2003 – Focus Group workshop with the shopping centre owners and lessees facilitated by the City.
 - 16 September 2003 – Advisory letters sent to property owners adjoining and within the proposed 'Development' Zone.
 - 22-24 September 2003 – The City, in collaboration with the Department for Planning and Infrastructure, Department for Housing and Works and the Department for Education and Training conducted an Enquiry-by-Design (EbD) Workshop.
 - Scheme Amendment advertised in paper (West Australian – 24/9/03, further adverts in the Cockburn Gazette – 11/11/03 & the Cockburn Herald – 8/11/03).
 - 24 September 2003 – Sign erected on Len Packham Reserve advertising the Scheme Amendment.
 - 15-16 November 2003 – Distribution of information flyer to the whole suburb summarising outcomes from the EbD workshop and attaching a residents survey that could be lodged as a submission on Amendment No 10.
 - 19 November 2003 – Public Forum at Centenary Hall to present the Outcomes Report from the Workshop.
 - 22 November 2003 – Manned public display at the Coolbellup Shopping Centre.



All of the steps outlined at the Coolbellup Community Association public meeting on 16 June 2003, have been completed except for consideration of the submissions and recommendation on Town Planning Scheme Amendment No. 10, which is the purpose of this report.

Report

The Enquiry-by-Design Workshop was attended by 63 people with participants split into two groups; the Technical Group and the Consultation Group. The Technical Group consisted of officers from Council, Department for Planning and Infrastructure, Department for Housing and Works, Department for Education and Training, Mirvac Fini and a representative from the Coolbellup Community Association. The Consultation Group consisted of representatives from 12 different community groups, business stakeholders and randomly selected Coolbellup residents.

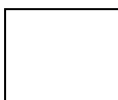
A copy of the Workshop Outcomes Report was distributed to all participants and Councillors in November 2003, and a summary flyer distributed to all Coolbellup residents in November 2003. The flyer was intended to assist residents in coming to a conclusion on Amendment No. 10 and the proposal to integrate the new primary school with recreation and community facilities on Len Packham Reserve. Only three submissions were received prior to the delivery of the flyer and the majority of submissions were on the form provided as part of the flyer.

1. Submissions

The Scheme Amendment was advertised for public comment from 24 September to 17 December 2003, with 86 submissions received during that time. These submissions are summarised in the Schedule of Submissions contained in the Agenda attachments.

A further 41 late submissions were received on 7 January 2004, all objecting to the proposed amendment. As the submissions were lodged well after the closing date, they are not able to be included on the Schedule of Submissions. These submissions were lodged on a Form No. 4 as a proforma submission and the same comments apply to those for submission No. 3 contained in the Schedule of Submissions and accordingly, the issues raised in these submissions have been considered and addressed in the Schedule of Submissions and this report.

Of the submissions received during the advertising period, there was overwhelming support for the development of the school on Len Packham Reserve (53.5%) compared to Koorilla (23.3%) and Coolbellup (9.3%). Had the late submission been lodged by the



required date, the statistics would have been Len Packham Reserve (36.2%), Koorilla (48.0%) and Coolbellup (6.3%).

A petition signed by approximately 350 persons objecting to the location of the proposed primary school on Len Packham Reserve, was presented to Council in April 2003. Further copies of the petition containing an additional 111 signatures was received on 17 December 2003. Most of the signatures on the subsequent petition were dated June 2003, well in advance of Amendment No 10 being advertised and the EbD information flyer being distributed.

In assessing those submissions lodged in the form of the flyer, those submissions supporting the development of the new school on Len Packham Reserve were considered to be in support of Amendment No. 10 and those not supporting the development of the new school on Len Packham were considered to be objections to the amendment.

Of the 86 submissions received during the advertising period, 46 supported the proposed new school on portion of Len Packham Reserve, 29 supported development on one of the existing school sites and 11 not stating a preference. Table 1 shows the results collated from the submissions.

Table 1 – Summary of submissions

Item	Issue	Options	Submission Results	
1.	New School Site	Len Packham Reserve	46	53.5%
		Koorilla	20	23.3%
		Coolbellup	8	9.3%
		North Lake	1	1.1%
		Not stated	11	12.8%
2.	Redevelopment of Koorilla School Site	An aged care/retirement village	25	29.1%
		As shown in Scenario 1, 2 & 4	10	11.6%
		As shown in Scenario 3 (new shopping centre)	26	30.2%
		As the new school site	20	23.3%
		Not stated	13	15.1%
3.	Redevelopment of Coolbellup School Site for Residential purposes	Yes	49	57.1%
		No	13	15.1%
		Not stated	28	32%
4.	Redevelopment of North Lake school site for residential purposes	Yes	56	65%
		No	4	5%
		Not stated	26	30%
5.	Redevelopment of Coolbellup Town Centre	Scenario 1 – Retention of existing tavern and redevelopment of existing shops	5	6.1%
		Scenario 2 – Redevelopment of the existing tavern with a smaller tavern and redevelopment of existing shops	21	24%

		Scenario 3 – Relocation of shopping centre to the Koorilla school site. Demolition of the tavern and shopping centre and redevelop for residential purposes.	25	29%
		Scenario 4 – Demolition of existing shops and tavern and redevelopment for residential purposes. New shopping centre and tavern is constructed at the northern end of the town centre.	13	15%
		Remain as is – No redevelopment of the shopping centre	3	3.1%
		Not stated	19	22%
Note: With regard to question no. 2, some people chose more than one option giving a result higher than 86.				

As required by the Town Planning regulations, the Summary of Submissions included in the attachments to the Agenda details the matters raised in each submission and an appropriate Council response. Where there are common items, Council's recommendation refers to where the issue was first raised. Many of the issues are satisfactorily dealt with in the Summary of Submissions, however the following main issues require a more detailed explanation and are dealt with hereunder.

- The process of the Amendment and the Enquiry-by-Design
- The use of Len Packham for the new school integrated with Council's recreation and community facilities rather than one of the three existing school sites
- Loss of active recreation use on Len Packham Reserve
- Loss of reserved public open space
- The sharing of community and recreation facilities
- Potential future use of Len Packham Reserve
- The upgrading and location of the shopping centre
- Development of the three existing school sites
- Residential development
- Traffic

2. The Amendment and Enquiry-by-Design Process

A number of the submissions challenged the process that has been undertaken for the Amendment and in particular, the Enquiry-by-Design (EbD) workshop. Several people were also of the view that there should be a referendum on the matter.

Requirements for the processing of a Scheme Amendment are specified by the Town Planning and Development Act Regulations. Council has complied with those regulations.



Copies of the flyer providing information on the EbD workshop and Amendment No 10 were delivered to every household in Coolbellup and accordingly, everyone received an invitation to comment on the proposed use of a portion of Len Packham Reserve for the new primary school. It is considered that the public consultation process has been well publicised, provided everyone with information on the proposal and the opportunity to comment and under the circumstances, undertaking a referendum is not justified.

The EbD process involved the random selection of 13 residents within the Coolbellup area from the electoral role, involvement of 12 community groups within the Coolbellup area, shop owners and traders, Council staff and Elected Members and State Government staff. A Focus Group workshop was also held with the shop owners and traders from the shopping centre a week before the EbD to investigate their ideas and concerns for the area. The Coolbellup Community Association are of the view that the EbD should have been open to any interested person.

The adopted EbD process has been developed and used successfully by the Department for Planning and Infrastructure and was considered appropriate for the Coolbellup exercise in that it included a workable number of participants representing community groups as well as randomly selected residents.

It should also be noted that a public forum and a display in the shopping centre was held following the workshop to present the outcomes to the community. The flyer distributed following the workshop and during the advertising of Amendment No 10, also presented the outcomes from the workshop. A number of the submissions raised concern that a plan showing the development of the new school on the Koorilla school site was not distributed to the wider community. The plan was displayed at the public forum and at the display in the shopping centre however, it was not distributed to the wider community to prevent confusion. The flyer however, is very clear in stating that the school may be located on the Koorilla site and those completing the submission form were requested to make a choice between the four possible sites (Koorilla, Len Packham, North Lake or Coolbellup).

The extent of public consultation undertaken has exceeded that normally undertaken for a Scheme Amendment but was considered appropriate given the complexity of the issues and the level of public interest.

3. Use of portion of Len Packham for the new consolidated school

During 2002, the Department for Education and Training in consultation with the school and general community in Coolbellup, worked through a process of seeking to rationalise the number of schools in the suburb.



The Local Area Education Planning (LAEP) Consultative Committee considered all options for the location of a new school including one of the three existing school sites and the option for integrating it with Council's recreation and community facilities on Len Packham Reserve. Whilst acknowledging the issues of interfacing with the existing hotel, shops and the high voltage power lines, the LAEP process recommended the new school be located on portion of Len Packham Reserve. The second preferred option was the redevelopment of the Koorilla site.

A triple bottom line assessment of the most appropriate site for the new school was conducted as part of the EbD workshop. In summary, the triple bottom line analysis was consistent with the findings of the LAEP process, in that Len Packham Reserve emerged as the most appropriate location for a new consolidated primary school. Furthermore, a new combined primary school on Len Packham Reserve was considered to have a significant beneficial impact on the use and likelihood of an upgrade, of the Coolbellup Community Centre due to its ability to create a group of shared school/community facilities in the location.

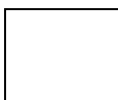
These matters were given careful consideration by the Department for Education and Training and the community during the Local Area Education Planning process and whilst these were acknowledged, it was considered that the advantages of locating on Len Packham Reserve far outweighed the disadvantages. It should also be noted that the location of the school is now proposed in the south west corner of Len Packham as opposed to the north east corner immediately adjacent to the hotel as was suggested when the LAEP process was undertaken.

A number of the submissions raise concern about the inclusion of the entire area of Len Packham Reserve within the 'Development' Zone, given that the fields themselves will be a shared facility. It is agreed that the 'Development' Zone needs to only cover the area required for the school and the remainder of the Reserve should remain as 'Parks and Recreation'. It is recommended that a modification be made to the amendment plan to reflect this.

4. Loss of active recreation use on Len Packham Reserve

An analysis of Council's active recreation reserves show that Len Packham Reserve is under utilised as an active recreation area and in fact, is one of the lowest usage rates in the district. The development of a portion of the Reserve for the proposed primary school will not compromise the active sporting requirements for the current and future community.

As part of the proposal, a major portion of Len Packham Reserve will be retained for recreation purposes. During the Workshop an analysis



was conducted on the current use of the Len Packham Reserve and the area required to ensure the continuation of these uses. The analysis shows that a new school could be located on the south-western corner of Len Packham (where the tennis and basketball courts currently exist), leaving sufficient room for two junior soccer fields, two rooball fields, a full soccer field, a skate park, new tennis courts and a new basketball court, should these be required. This would not reduce the number of playing fields currently available. Lighting of the reserve would provide further opportunities for its use.

To accommodate the school on Len Packham Reserve, it will be necessary to provide new tennis and basketball courts and a new car park. The Coolbellup Tennis Club, which regularly uses the courts, has advised that plans for the new facilities needs to include a small clubroom to replace the existing building which is inadequate. The needs of the club will be taken into account with the review of the community facilities with the opportunity for shared use.

5. Loss of reserved public open space land

There has been concern about the loss of public open space (POS) in Coolbellup if the school is located on a portion of Len Packham Reserve. At its meeting held in December 2002, Council resolved to advise the Education Department that support for the school on a portion of Len Packham Reserve was conditional on there being no net loss of public open space in the locality. Accordingly, the area of land required for the primary school on Len Packham Reserve would need to be replaced elsewhere in Coolbellup.

The Education Department has agreed to replace land taken from Len Packham Reserve as additional public open space within the development of the old school sites over and above the normal 10% open space requirement that would apply to the development of those sites.

Table 2 shows the school site areas, proposed POS and overall total area of POS to be given up if development occurs in accordance with the plans prepared at the Workshop.

Table 2 – Public Open Space figures

School site	Site Area	Normal 10% POS	Proposed POS – as per Workshop plans	% POS of site
Coolbellup	4.6741ha	0.4674 ha	1.2530ha	26.8%
North Lake	4.1632ha	0.4163 ha	2.3960ha (excludes the drainage area on the corner of Capulet St and Montague Way)	57.5%
Koorilla	4.2264ha	0.4226 ha	Nil	0%
Total	13.0637ha	1.3063 ha	3.6496ha	



Plans prepared at the EbD workshop for the development of the three school sites for residential purposes includes 3.6496 ha for POS. This represents the following;

Replacement POS – Len Packham Reserve 2.00 ha
POS in respect to the school site development 1.6496 ha (12.6%)

The above shows that there will be no net loss of public open space in Coolbellup, with the area of Len Packham Reserve being taken for the primary school being provided primarily at the North Lake school site.

There is a view in the community that notwithstanding the replacement POS, the provision of open space within the school sites should be in excess of the normal 10% POS requirement imposed by the Western Australian Planning Commission as a condition of subdivision. In this instance, the amount being provided is 12.6%. Some submissions suggest a more appropriate figure is 25-30% but no justification is given. Any increase above the normal 10% POS will need to be justified and negotiated with the Department for Education and Training and Western Australian Planning Commission. The suggestion that 30% of the school sites be set aside as POS, was raised at the Annual Electors Meeting held on 3 February 2004, and has been addressed separately in the agenda.

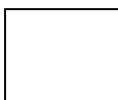
The Department for Education and Training has advised that it is prepared to provide the 12.6% POS as shown on the plans prepared during the Workshop. However in the event that the school does not go on Len Packham Reserve, the amount of POS to be provided will be reviewed because the amount shown on Coolbellup and North Lake Primary School sites is approximately 41.3% and is excessive in this circumstance.

In summary, under the current proposals and in accordance with Council's previous determination, there will be no net loss of land reserved for 'Parks and Recreation' in Coolbellup as a result of the proposed primary school being located on Len Packham Reserve and the development of the school sites will result in additional open space being provided to satisfy subdivision requirements.

6. *Sharing of community and recreation facilities*

The proposed shared community facilities that were considered include:

- Library
- Community hall, kitchen and meeting rooms
- Sports change rooms and toilets
- Car parks
- Canteen
- Sports fields, tennis and basketball courts



- Covered assembly area

Following discussions with the City's Librarian and the Department for Education and Training, it has been concluded that the school and Council libraries should remain separate given the difference in library material, staffing and access requirements. Based on the outcome with the community consultation, this is consistent with the community views.

The community has raised concerns about the shared use of the replacement change rooms/club rooms given that these are currently used by the local aboriginal and maori groups and the potential conflict with school use. There needs to be further consultation with the Department for Education and Training and user groups on this matter but it appears unlikely that this would be a shared facility, given the potential incompatibility of the various uses.

A number of submissions raised concern about access to the shared recreation facilities on Len Packham Reserve during school hours. Council shares recreation facilities and car parks with the Department for Education and Training in other areas and has not experienced any use issues. Council would ensure that the needs of the school and community are met through an agreement between the Department for Education and Training and Council.

A number of the submissions also raised concern about the loss of the Adventure Club accommodation from the North Lake school site. It should be noted that this is an issue that needs to be addressed regardless of where the new school is located, as there will be no vacant rooms available in the new school that could be available for this purpose as is currently the case at North Lake. Council officers have advised the Adventure Club that they will assist in identifying possible accommodation options, the preparation of joint funding applications and ensure they are included in discussions to determine facilities to be included on the school sites and Len Packham Reserve.

There are clearly opportunities for the sharing of car parking and recreation facilities by the City and Department for Education and Training and subject to detailed investigations, there could be other items of infrastructure. It is recommended that a consultative process be undertaken to discuss the potential of sharing the facilities. An initial meeting has been held with the main government stakeholders to discuss the process and proposals to date. The process to include community organisations such as the Adventure Club, Coolbellup Community Association, Soccer Club and users of the Burdiya Hall.

7. Potential future use of Len Packham Reserve

The flyer distributed to the community resulted in a number of suggestions on what facilities are wanted on Len Packham Reserve if



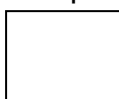
the school is located on the Reserve or if it is retained solely for recreational purposes. Table 3 below shows the suggestions from the community:

Table 3 – Summary of facilities for Len Packham Reserve from the submissions lodged on the amendment

School located on Len Packham Reserve	School <u>not</u> located on Len Packham Reserve
<ul style="list-style-type: none"> • Indoor recreation facilities that cater for all ages • New change rooms • Joint school/community facilities especially for indoor activities • A recreation centre • A gym • Squash courts • Volleyball courts • Lawn bowls • New public toilets • Club rooms • Seats and benches for public use with semi cover • A cycle path around the entire Reserve • Football field/grassed area • Outdoor fitness circuit • Playground • Skate park and bike ramp • Cycle maze for younger children • School dentist • Child health care centre • Bins 	<ul style="list-style-type: none"> • New tennis courts • Multi purpose community hall/recreation centre for a variety of activities and events, sports, theatre, amphitheatre etc. • New change rooms • Permanent skate park • Seating • Trees, landscaping, water features • More park, public areas • Picnic area • Upgrading of existing facilities • Lighting • Residential development • Barbeques • Lawn bowls • Basketball and netball courts • Outdoor cinema • Cricket pitch • Public toilets • Bins • Junior soccer fields • BMX track and cycle path around the Reserve • Community art • Playground • Car parking for sporting events • Police station • Hall or drop in centre for youth • Pet shop • Craft shop • Out of school centre • Second hand tool shop • Mother and baby playgroup

As previously noted, there is a commitment to provide new change rooms on Len Packham Reserve as part of the New Living Project funding and the tennis courts will need to be replaced if the school proceeds on that portion of Len Packham Reserve.

An indoor recreation facility that caters for basketball, volleyball, gym etc would not be provided as part of the new school and unlikely to be provided as part of Council’s infrastructure, given they are a district function and are already catered for at the South Lake Leisure Centre, the Baptist Lakeside Centre and Wally Hagan Stadium as well as other private venues.



Further detailed consideration will need to be given to the suggested list of facilities and improvements for Len Packham Reserve. Council will need to consider any recommended facility or upgrade for inclusion in the Principal Activity Plan and Annual Budgets with due regard to the overall needs and priorities within the City.

8. Town Centre Redevelopment

Five scenarios for the redevelopment of the town centre were prepared at the Workshop and are detailed in the table attached to the Agenda. A further scenario based on the new school being located on the existing Koorilla site was discussed at the Workshop and is referred to in the EbD flyer and the outcomes report. A plan showing this option was produced after the Workshop and was included in the display material at the public meeting and the manned display.

Scenario 3 shows the relocation of the town centre and tavern to the Koorilla site and is the preferred option of respondents for the following reasons:

- Traders within the centre will be able to continue trading while the new shopping centre is being constructed.
- This scenario is supported by the majority of the shop owners.
- This scenario will produce the best long-term outcome for Coolbellup.
- Whilst this scenario does not offer the degree of integration with the new school on Len Packham as scenarios 1 and 2, it addresses the concerns of the community of the proximity of the new school to the tavern.
- Provides the best access for the aged care/retirement village users to retail facilities.
- Will see the conversion of Cordelia Avenue into a main street with trees and median parking.
- Whilst this scenario has the highest risk, if it is successful it will have the highest return rate.

To progress the proposal, a number of the shopping centre owners have included in their submission, a request that the 'Development' Zone area proposed as part of Amendment No.10 be extended to incorporate the Koorilla school site to allow for investigation of a Structure Plan in accordance with Scenario 3. Whilst Scenario 3 is supported as the preferred option for the redevelopment of the shopping centre, the inclusion of the Koorilla school site would represent a significant variation to the advertised amendment and would require readvertising and hence delay finalisation of Amendment No.10. Accordingly, the rezoning of the Koorilla school site should proceed as a separate amendment once Amendment No.10 has been determined.



For Scenario 3 to be implemented, extensive and complicated negotiations and agreements will need to be achieved. This will need to include both local and state government, the shop owners and traders and other government agencies. There are a number of ways Scenario 3 may come to fruition: a developer buying out the shopping centre owners and constructing a new centre, or the existing shopping centre owners forming a coalition and developing the new centre. As indicated, there will need to be extensive negotiations between all parties for the proposal to work.

It is also recommended that a consultative process be undertaken with the owners within the town centre to further investigate the option and to develop an implementation strategy.

9. Development of the three school sites

Proposals were prepared at the Workshop for the redevelopment of the three existing school sites. The following principles were applied in assessing each site for redevelopment:

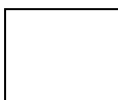
- No net loss of POS in Coolbellup
- Focus active open space in the centre of the suburb
- Increase passive open space in the quieter residential areas
- Create a better balance of open space throughout Coolbellup
- Retain and protect the best trees and bushland.

Concerns raised in the submissions relating to access, traffic movements, density, building heights and possible uses (eg. a lawn bowls facility) will need to be addressed through the rezoning and structure planning processes for each site. A separate amendment will need to be initiated by Council to rezone each school site to 'Development' Zone for the structure plan process to occur.

Generally, as illustrated in Table 1, the submissions supported development of the three school sites for residential purposes, with the exception of Koorilla which was supported for the development as the new shopping centre. Considerable support was also given for the development of Koorilla for an aged care/retirement village. This proposal is catered for as part of Scenario 3.

10. Residential development

Strong support was expressed for the development of aged care and retirement housing on the Koorilla primary school site in recognition of the aging population in Coolbellup and the sites proximity to shops, community infrastructure and bus services. A number of people objecting to the proposed school on Len Packham, nominated Coolbellup as the preferred school site to enable the Koorilla site to be developed for aged and retirement housing. Scenarios 1 to 4 can



provide for aged persons accommodation on the Koorilla site. In Scenario 3, this would be integrated with the new shopping centre.

Concern was also expressed in a number of submissions regarding the proposed density of development within the town centre precinct and the primary school sites. There was a strong preference for single story individual dwellings rather than grouped housing or apartments. Further detailed consideration will need to be given to the proposed lot size and development densities at the structure planning phase of the planning process. This will enable more detailed consideration to be given to an appropriate mix having regard to amenity and marketing considerations and the provision of a greater level of detail. The structure plans will be advertised for further public comment in accordance with the requirements of TPS No 3.

11. Traffic considerations

Some submissions express concern about access to the proposed school on portion of Len Packham Reserve and student safety.

The main access to a primary school located on a portion of Len Packham Reserve would be via an access road off Cordelia Avenue to a car park servicing both the school and the recreation facilities on Len Packham Reserve. Given the limited access to a school on Len Packham Reserve it will be necessary to ensure that the car park is designed to include a set down/pickup lane, adequate capacity for the PM pickup, has good internal circulation and appropriate treatment with its intersection with Cordelia Avenue which could include a roundabout.

The scenarios prepared at the Workshop show the current service lane to the rear of the shopping centre being opened up and converted into a treed street. Should this occur, this will provide an additional drop off area directly adjacent to the western boundary of the school. This access would need to be negotiated either as part of the subdivision and or redevelopment of the town centre site. Scenario three also shows the conversion of Cordelia Avenue into a main street with parking and planting within the median.

A Neighbourhood Concept Plan was also prepared at the Workshop which proposes a number of alterations to the road network. A number of concerns have been raised in the submissions regarding the proposed alterations and in particular, the closure of southern end of Hargreaves Road which was considered to enable the linking of Hargreaves Park with POS proposed within the Coolbellup school site residential development. The City's Engineering Services has recently considered some minor alterations to the road network throughout Coolbellup which was not at the scale proposed in the Neighbourhood Concept Plan. It is recommended that these concerns relating to the alterations to the road networks be considered through the rezoning and structure plan process for the school sites.



12. Summary and recommendations

During the advertising period, 86 submissions were received as detailed in the report. In accordance with the Town Planning Regulations, Council must consider each of the submissions and make a recommendation on each point raised. In addition, petitions containing a total of 461 signatures and 41 late submissions objecting to a school on Len Packham Reserve were received. These are presented to Council for information only although the issues raised in the late submissions were the same as Submission No 3, given that they were on a circularised proforma and accordingly have been dealt with as part of the process.

Council is not required to adopt the majority view but rather determine the most appropriate outcome for the broader community having regard to the issues raised and the merits of the case.

The issues of loss of open space and impact on active recreation facilities have been considered in detail and it has been concluded that Len Packham Reserve is under utilised and the use of a portion of the Reserve for a primary school would not compromise the current or future active sporting needs of the Coolbellup community.

In respect to the inappropriateness of locating a primary school adjacent to a shopping centre and hotel, it is noted that these issues were identified by the Department for Education and Training and the community as part of the previous Local Area Education Planning process which, in the full knowledge of these issues, recommended Len Packham as the preferred location for the new school. The Enquiry-by-Design process and advertising of Amendment No.10 did not identify any issues in addition to those previously identified by the LAEP process. It should also be noted that the location of the recommended school site on Len Packham Reserve is now in the south west corner of the Reserve which is further from the hotel than the north west corner recommended by the LAEP process.

Officers at the Department for Education and Training are aware of the issues raised during the public consultation process and are of the view that Len Packham still represents the best location for the new school site and that most of the issues can be resolved through the design of the school complex. This also applies to the potential impact on the aged care and unit development located on the east side of Len Packham Reserve. This is a view shared by Council officers.

The options available to Council are:



Option 1

Support the development of the school on Len Packham Reserve and resolve to proceed with Amendment No.10. If this option is followed, it is recommended that the amendment be modified to only include that section of Len Packham Reserve that is required for the school in the 'Development' Zone, leaving the balance of the land Reserved for 'Parks and Recreation'. This will provide the community with more confidence that there will be no further encroachments into Len Packham Reserve for either future expansion of the school or any other use.

Option 2

Reject the proposed school on Len Packham Reserve favouring instead, its development on one of the three existing school sites. If this option is followed, it is recommended that Council resolve to proceed with Amendment No.10 but in an amended form excluding, Len Packham Reserve from the proposed 'Development' Zone and leaving it as a Reserve for 'Parks and Recreation'. This would result in the commercial precinct being in the 'Development' Zone which would provide greater flexibility and control over the future redevelopment of the centre.

Having considered all the issues raised and noting the continued support of the Len Packham option by the Department for Education and Training and the school community, it is considered there is no justification to depart from Council's earlier support to the proposed development of the new school on a portion of Len Packham Reserve subject to it being located in the south west portion of the Reserve, that the Department for Education and Training undertake to meet all associated costs of reinstating Council's infrastructure that will be affected by the school and that the Department formalise a user agreement in respect to the shared facilities, to ensure that public use of those facilities is protected. Accordingly, it is recommended that Council proceed to finalise Amendment No.10 in accordance with Option 1 outlined above.

It is also recommended that Council:

- pursue Scenario 3 as the preferred option for the redevelopment of the town centre;
- form a working group consisting of landowners and lessees within the commercial precinct, government agencies and Council to further investigate Scenario 3 and to develop an implementation strategy;
- form a working group consisting of community groups, school P and C representatives, government agencies and stakeholders and Council to discuss the possibility of sharing facilities with the new school;



- advise the Department for Education and Training that it supports the development of the Koorilla site either in part or total for a retirement village/aged housing and this should be addressed as part of the rezoning proposal for the site.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To conserve the character and historic value of the human and built environment."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*
 - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
 - *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*
5. Maintaining Your Community Facilities



- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*
- *"To construct and maintain community buildings which are owned or managed by the Council."*

The Planning Policies which apply to this item are:-

SPD1 Bushland Conservation Policy
 SPD2 Community Facilities Infrastructure - 10 Year Forward Plan
 SPD4 'Liveable Neighbourhoods'
 APD4 Public Open Space
 APD5 Public Works and Development by Public Authorities

Budget/Financial Implications

Council will need to consider any recommended facility or upgrade for inclusion in the Principal Activity Plan and Annual Budgets with due regard to the overall needs and priorities within the City.

Council's Principal Activities Plan currently provides for a Council contribution of \$400,000 towards the project with a commitment of a further \$350,000 from Department of Housing/Fini Group towards upgrading of community facilities. A further \$180,000 for landscaping within the central town centre precinct is also available.

Legal Implications

Nil

Community Consultation

Extensive community consultation has been carried for this project. See background section of this report for details on community consultation. 86 submissions were received during the advertising period with 41 late submissions being received well after the due date.

A petition signed by approximately 350 persons objecting to the location of the proposed primary school was presented to Council in April 2003. Further copies of the petition containing an additional 111 signatures was received on 17 December 2003.

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES



15.1 (MINUTE NO 2317) (OCM 17/02/2004) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for January 2004, as attached to the Agenda.

COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr A Edwards that the recommendation be adopted.

CARRIED 9/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.



16. ENGINEERING AND WORKS DIVISION ISSUES**16.1 (MINUTE NO 2318) (OCM 17/02/2004) - BUDGET REVIEW WORKS - PROGRESS DRIVE (GWILLIAM/HOPE) - TRAFFIC CALMING (450691) (JR) (ATTACH)****RECOMMENDATION**

That Council receive the report and endorse the traffic calming works proposed for Progress Drive (Gwilliam/Hope).

COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr A Edwards that the recommendation be adopted.

CARRIED 9/0

Background

At the Ordinary Meeting of Council held on 16 December 2003, the Budget was reviewed and amended. An additional amount of \$11,430 was allocated to allow for completion of the existing project, Progress Drive (Gwilliam/Hope) Traffic Calming, subject to a report being presented to a future Council Meeting before work commences on the project.

Submission

Additional funds are required to complete the project that was adopted in the 2003/04 Budget.

Report

The passive traffic calming works proposed for Progress Drive include the installation of eight landscaped central traffic islands connected with a painted central island. This is designed to passively reduce the prevailing traffic speed whilst introducing a central painted refuge for pedestrians crossing Progress Drive. No raised speed plateaux are proposed.

Strategic Plan/Policy Implications

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



Budget/Financial Implications

The Budget allocation will allow for the completion of the proposed works.

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

16.2 (MINUTE NO 2319) (OCM 17/02/2004) - BUDGET REVIEW WORKS - NORTH LAKE ROAD/BIBRA DRIVE - INTERSECTION AND ROAD UPGRADE (450010) (JR) (ATTACH)

RECOMMENDATION

That Council receive the report and endorse the upgrade works proposed for the North Lake Road/Bibra Drive intersection.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr A Edwards that the recommendation be adopted.

CARRIED 9/0

Background

At the Ordinary Meeting of Council held on 16 December 2003, the Budget was reviewed and amended. An amount of \$180,000 was allocated for North Lake Road/Bibra Drive – Intersection and Road Upgrade, subject to a report being presented to a future Council Meeting before work commences on the project.

Submission

There have been numerous requests to improve the intersection for right-turning traffic in and out of Bibra Drive.



Report

The works proposed for the intersection includes widening and channelisation, with turning pockets to accommodate two lanes in each direction with the future dualing of North Lake Road between the railway crossing and north of Bibra Drive.

Strategic Plan/Policy Implications

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

Budget/Financial Implications

The Budget allocation will allow for the completion of the proposed works.

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

16.3 **(MINUTE NO 2320) (OCM 17/02/2004) - BUDGET REVIEW WORKS - BEELIAR DRIVE/HAMMOND ROAD - TRAFFIC SIGNALS (450953; 450012) (JR) (ATTACH)**

RECOMMENDATION

That Council receive the report and endorse the traffic signal works proposed for the Beeliar Drive/Hammond Road intersection.

COUNCIL DECISION

MOVED Cllr I Whitfield SECONDED Cllr V Oliver that this matter be deferred to the March Council Meeting to allow for an investigation into the establishment of a roundabout at the Beeliar Drive/Hammond Road intersection rather than traffic signals.

Amendment

That a point (2) be added to read:



- (2) request Main Roads WA to reduce the speed limit from 80kms to 70kms in this section of Beeliar Drive, as soon as possible to improve public safety.

AMENDED MOTION PUT AND CARRIED 9/0

Explanation

Council wishes to make Beeliar Drive a 'preferred use' road to relieve congestion on Farrington Road and Progress Drive. Therefore Beeliar Drive must be as free as possible and a roundabout would serve this purpose better.

Background

At the Ordinary Meeting of Council held on 16 December 2003, the Budget was reviewed and amended. An amount of \$80,000 was allocated for Beeliar Drive/Hammond Road – Traffic Signals, subject to a report being presented to a future Council Meeting before work commences on the project.

Submission

The Beeliar Drive/Hammond Road intersection is a potentially hazardous high speed intersection near the new Emmanuel Catholic College. Traffic congestion at school drop-off and pick-up times accentuates the potential hazard.

Report

The works proposed for the intersection are the early installation of traffic signals, which are an earmarked future requirement as subdivision development to the south increases Hammond Road traffic. This will improve the safety of turning traffic movements at the intersection during the critical school drop-off and pick-up times.

Following Council's decision, a video monitoring survey of the intersection was undertaken on Tuesday 9 December 2003. A summary is attached to the Agenda and concludes:-

- There is increasing delays for right turners as traffic has increased by 35% at the intersection in the last 2 years.
- The lack of any safe crossing facility for pedestrians/cyclists in Beeliar Drive is of some concern.

The traffic light installation will address the delays and crossing facilities whilst providing for orderly traffic movement at the intersection during school times. It should be noted that Main Roads WA intend



reducing the speed limit in this section of Beelias Drive from 80 km/h to 70 km/h.

Support will be required from Main Roads for the signals to be installed.

Strategic Plan/Policy Implications

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

Budget/Financial Implications

The Budget allocation will allow for the completion of the proposed works.

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

AT THIS POINT THE TIME BEING 8.04PM, MR DON GREEN RETURNED TO THE MEETING.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (MINUTE NO 2321) (OCM 17/02/2004) - COOLBELLUP COMMUNITY FACILITIES (4604) (RA)

RECOMMENDATION

That Council:-

- (1) allocate \$25,000 for the appointment of an architect to develop concept plans and costings for the upgrade of the Coolbellup community facilities and Len Packham Reserve, in anticipation of the possible Town Centre development to maximise opportunities for integrating shared use of community facilities and for attracting grant funds;



- (2) require from the appointed architect, a concept plan for the upgrade of the Coolbellup community facilities for consideration; and
- (3) transfer \$25,000 from the Community Facilities Reserve to fund the project.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED C/r K Allen SECONDED C/r V Oliver that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

Council has had for a number of years on its Principal Activities Plan, the upgrade of the community facilities on the Len Packham Reserve and the adjoining community purposes site in Coolbellup. The facilities currently available on these sites include the Cockburn Centenary Hall, adjoining Coolbellup Library and Cockburn Vocational Centre; Club/change rooms; Coolbellup Community Centre; Infant Health Clinic building; hard courts and the grassed playing fields. There is also a transportable building behind the Coolbellup Community Centre and another in the courtyard used by the library. The club change rooms have been identified for some time as being in need of an upgrade but this work has been held over until such time as a plan for the overall redevelopment of the precinct has been established.

In a decision of Council on 12 October 1999, it was resolved that:

- “(1) Council purchase and fit out a transportable building to serve as office workspace for the Coolbellup Library and for this building to be placed in the courtyard area behind the library;
- (2) the rent for the Cockburn Vocation Centre (Inc) remains at \$8,585 for an area of 214m², with the lease to be extended to the 30th of June 2001;
- (3) Council donate \$17,095 as a subsidy towards the rental of the Cockburn Vocation Centre and the budget be adjusted accordingly; and



- (4) Council acknowledge that this is a temporary arrangement and will be reviewed when either;
- (i) sewerage works planned for the area are undertaken, or
 - (ii) negotiations with the Fini Group for the construction of a purpose built facility to accommodate the Cockburn Vocational Centre activities are completed.”

Council was to replace the existing transportable building used by the Coolbellup Library when the upgrade of the facilities in Coolbellup was taking place.

As a result of the “Enquiry-by-Design” workshop for the redevelopment of the Coolbellup precinct, a proposal has been promoted to place a new primary school on a portion of Len Packham Reserve. This accords with the Council decision of 17 December 2002, which conditionally supports the proposal for a new primary school to be located on a portion of the reserve.

Submission

N/A

Report

The possible location of a primary school on a portion of the Len Packham Reserve requires Council to give consideration to the replacement, upgrade and refurbishment of community facilities on the site. The opportunity also exists for joint use and funding options to be explored to maximise the potential for community infrastructure for the area.

Through the “Enquiry-by-Design” workshop process, views were expressed by community and departmental representatives that a range of facilities could be shared and co located. Of particular note was the proposition for a joint use school/community library. This proposition is not supported for a number of reasons. The library stock for children and adults is quite different and in some cases, adult stock is most inappropriate for children. Members of the broader community can have close interaction with children from the school creating issues of duty of care for the Education Department in respect to inappropriate behaviour by members of the community in their dealing with children. The wages and conditions of employment between the library staff employed by the Education Department and the City vary, which can cause disharmony between the respective staff. For the reasons described above, the Education Department is not willing to enter an arrangement for a joint use library.



The proposed location for the primary school at the South West corner of Len Packham Reserve car park will require the relocation of the hard court area. The joint use between the school and the community of the hard courts, appears to be a viable option and given that the Education Department will require the removal of the courts which are quite functional, it is proposed that the Education Department would pay for or credit the City the cost of the court replacement.

An opportunity exists for the possible joint use of a large hall/assembly area, which would result in saving in the capital cost of the building and savings in operating expenses. Scope for shared parking also needs to be explored, as the hours of school needs are different to that of the general community using the community facilities.

An obvious area of joint use are the grassed playing fields which can be rationalised to provide for quality lit playing fields releasing areas which can be developed into quality passive areas for leisure and cultural activities providing a further attraction to the precinct.

The Council decision of 17 December 2002, required that current users of the reserve and its facilities be accommodated in any plans for the area. The proposed school location will seriously compromise the use of the very dated Len Packham Reserve club/change rooms, which will probably require them to be demolished and located on another site on the reserve, or jointly developed with other facilities. The current facilities include a toilet change room area and a clubrooms area used by the Coolbellup Junior Soccer Club and the Burdiya Aboriginal Corporation respectively. There is also a local Maori organisation that uses the clubroom area and has advised of an interest in having a longer-term presence using the reserve for touch rugby. There is a strong possibility that the City will be able to attract funds from other sources to accommodate the needs of these clubs in either a stand-alone facility or shared with other users.

The Education Department has developed preliminary plans for the possible location of the school on the reserve in anticipation of the necessary planning approvals being given for location of the school on the site. For the best outcome in respect of joint use, good planning and architectural design, the City and the Education Department through their architects need to develop an overall coordinated and coherent plan for the community precinct. It would be most unfortunate should the situation arise, where the Education Department proceed with the design of the school on the site and for joint use of the ovals and hard courts without due consideration of the Council's needs and the opportunities and best options for the site.

Besides the opportunities for joint use with the Education Department, consideration also needs to be given for the opportunities of sharing areas within the facility by the various users, both Council funded and community organisations. From the City's perspective, there is a great



opportunity to bring the current Council services together to create a synergy of joint use and cost saving. For example, there is currently a reception area in the library and the community centre; a telephone, photocopier and fax in both areas; a staff room in both; a meeting room in the community centre and not one in the library. There are many opportunities to create a comprehensive and coordinated range of services from the one location that need to be explored.

It is proposed that a process be put in place which will allow the opportunity for current users of the community facilities in Coolbellup and others interested in the facilities such as the Adventure Club, to advise on what they would like to see provided and identify the opportunities that they see for joint use of areas.

For the Coolbellup community to benefit most from the redevelopment proposals, the opportunity needs to be taken to seek as much external funding as possible to ensure that the benefits from this unique opportunity are maximised. To this end, an information session has been held with various agencies to inform them of the proposals and seek their support in developing a coordinated funding package.

The indicative timetable for the redevelopment and refurbishment of the Coolbellup community facilities is as follows:

- Information session with funding bodies and other agencies on the redevelopment proposal - completed December 2003.
- Meeting with affected Council staff to ascertain their needs and opportunities for joint use of facilities and services - completed 2003.
- Appointment of Architect with landscape design capacity - March 2004.
- Workshop with local users of the facilities and other interested parties to ascertain their needs and opportunities for joint use - March 2004.
- Establishment of development options and broad costings for consideration by Council with the adoption of a preferred option - May 2004.
- Concept design and costing to meet the requirements of funding agencies - July 2004.
- Result of funding applications known - March 2005.
- Decision of Council to proceed or not with the redevelopment - April 2005.
- Possible start date - August 2005.

The appointment of an Architectural firm with the capacity for landscape design is seen as an important early requirement as there



needs to be an early dialogue with the Education Department's Architect to ensure that the best site options are explored to meet the needs of both the Education Department and the City. There also needs to be well-considered concept plan and costing for consideration by Council in the first instance and for later submissions for grants from other agencies if required. It is proposed that the Architect be appointed with the potential to provide for a full suite of architectural services, but on the basis that the terms of the contract will allow the City to withdraw at any stage from the contact. The architect's brief will encompass the requirement to develop concept plans that identify the most cost effective and efficient means to meet the requirements of the various users and maximise the opportunities for joint use of facilities. The intent is to ensure the concept design section of the brief is flexible to allow for the opportunity for the best design options to be identified.

Strategic Plan/Policy Implications

"Facilitating a range of services responsive to the community needs."

"Maintaining and providing roads, parks and community buildings to acceptable standards."

Budget/Financial Implications

It is proposed that Council allocate the sum of \$25,000 for 2003/04 for architectural services to develop preliminary concept plans for consideration and allocate additional funds in 2004/05 subject to Council consideration and acceptance of the preliminary concept plan.

The Department of Housing and Works have committed \$350,000 with City of Cockburn contributing an equal amount in accordance with Coolbellup New Living Contribution Schedule adopted by Council at its meeting of 14 September, 1999. A further \$180,000 is available for landscaping and beautification works on the reserve in accordance with the Schedule. There are, depending on the final design and what activities are catered for, opportunities for funds to be available from the Lotteries Commission, Education Department, Department of Sport and Recreation and Departments with an Aboriginal focus.

Legal Implications

N/A

Community Consultation

There has been extensive community consultation in relation to this project through the Education Department's planning processes and the "Enquiry-by-Design" workshop process and Amendment No. 10 to Town Planning Scheme No. 3.



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

Nil.

17.2 (MINUTE NO 2322) (OCM 17/02/2004) - COCKBURN BASKETBALL ASSOCIATION INC (8000) (RA)**RECOMMENDATION**

That Council supports the application to the Department of Racing, Gaming and Liquor by the Cockburn Basketball Association Inc for a Club Liquor Licence in accordance with the terms of the current lease.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

The Cockburn Basketball Association Inc (CBA) leases the Wally Hagan Stadium in Starling Street Hamilton Hill, with the lease due to expire on 30 June 2006.

The CBA has been a relatively self-sufficient organisation other than for a significant write off of a loan repayment to a value of \$177,021 made by Council in May 2001. The revised lease terms instigated following the write off of the loan repayment, essentially charges the organisation with the responsibility of overseeing and payment of all the facility operating and maintenance costs.

Submission

The CBA has written to the City requesting that Council approve the Association's request to change their liquor licence from a Club Restricted Licence to that of a Club Licence.

Report

Council, as owners of the land over which the CBA has a lease, is required to give prior written agreement to any application by a third party to the Department for Liquor and Gaming for a liquor licence or a change to the nature of the licence held.



The Club has had a Club Restricted Licence for a number of years and as far as the writer is aware, there have been no issues or concerns raised as a result of the club having such a licence. The current liquor licence hours are 6.00 pm to 12.00 midnight Monday to Saturday inclusive and Sunday 12 noon to 10.00 pm.

The essential differences between the respective licences are as follows:

- With a Club Restricted Licence, the club cannot sell packaged liquor and all liquor purchased under the licence must be purchased from a hotel, tavern or liquor store that is located within an 8 kilometres radius of the club premises. On the other hand, the Club licence allows the club to sell packaged liquor to club members and to purchase liquor from any retail or wholesale liquor outlet.
- There are obviously some financial benefits in the club having a club licence. It is possible that local liquor outlets within an 8 Km radius of the club could object to potentially losing a significant customer in the club itself and some customers who are members of the club purchasing liquor from the club.

Should Council agree to the request from the CBA to have a Club Licence the Department of Racing, Gaming and Liquor will require for a period of at least 2 weeks that a large sign be erected outside of the premises advising of the application and the notice period for submissions to the Department.

The adherence to the terms and conditions of any liquor licence issued by the Department, is the responsibility of the Club with the matter being addressed under clause 2.5 - Licences and Permits of the Lease, which states that the Club is “to keep in force all licences and permits required for the carrying out of any activities by it in or upon the demised premises”

Strategic Plan/Policy Implications

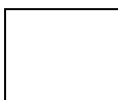
Key Result Area “Managing Your City” refers.

Budget/Financial Implications

N/A

Legal Implications

N/A



Community Consultation

The approval for the granting of a Club Liquor licence lies with the Department of Racing, Gaming and Liquor who have procedures to address community views on such applications

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

Nil.

17.3 **(MINUTE NO 2323)** (OCM 17/02/2004) - VIRTUAL PUBLIC LIBRARY SERVICE (710400) (DMG) (ATTACH)

RECOMMENDATION

That the Report from the Manager, Libraries entitled "Potential for Further Public Library Services in the City of Cockburn" as attached to the Agenda, be received.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

At the Council Meeting of 16 September 2003, in relation to proposed Council facilities to be located at Cockburn Central, the following (part) resolution was adopted:-

"(2)(iii)(c) that Council directs the Chief Executive Officer to (c) provide a report to a future Council Meeting in relation to extending the Virtual Public Library Service."

Submission

N/A

Report

The attached Report provides a brief history of the Virtual Service operating in conjunction with Lakelands Senior High School. It identifies its shortcomings and the problems which would be posed if an expanded virtual service was to be contemplated. Notwithstanding this, the Library staff are endeavouring to promote the initiative in the



South Lake community and would see a need to ensure it is taken up within the South Lake catchment before endeavouring to promote a wider virtual service.

Strategic Plan/Policy Implications

Key Result Area “Facilitating the Needs of Your Community” refers.

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

Nil.

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

Nil.

17.4 (MINUTE NO 2324) (OCM 17/02/2004) - LEASE - LOT 4382 - CORNER OF HURFORD AND STARLING STREETS, HAMILTON HILL (2213589) (JZ)

RECOMMENDATION

That Council enter into a lease agreement with the Department for Health, for the use of Lot 4382 – Corner of Hurford and Starling Streets Hamilton Hill as a Community Health Service, for a period of 5 years with an option for a further 5 years, with the following terms and conditions:

- (1) A rent of \$10,000 per annum increasing annually by Consumer Price Index (CPI) Perth (all groups).
- (2) Lessee responsible for all maintenance and outgoings associated with the property.
- (3) All other terms and conditions agreed to the satisfaction of the Chief Executive Officer.



COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

The building on the corner of Hurford and Starling Streets in Hamilton Hill was previously a Child Health Clinic and was extended and altered by the City to enable the Disability Services Commission to operate an early intervention centre. The previous lease was for a 5 year period and expired on 31 December 2003, with the option to extend for a further 3 years at a lease fee of \$16,218.00 per annum plus CPI established as of 1999. The lease fee with the Commission was established in relation to the cost of building works plus interest for repayment over an 8 year period. The option to renew the lease was not taken up by the Disability Services Commission, as the services previously delivered from Starling Street are now being provided at the Commission's new South Metropolitan Office in Myaree. The Disability Services Commission, in accordance with the terms of the lease, have committed to repairing and repainting the building to its original standard.

The vesting of the land limits the use options as it is set aside for a Community Care Centre.

Submission

A letter has been received from the South Metropolitan Health Service, advising that they wish to lease the building to accommodate community health staff of the Fremantle Community Health Service. This is a regional service which includes all of the City of Cockburn.

Report

The intention of Fremantle Community Health is to use the facility to offer a comprehensive, multi-disciplinary service, provided by occupational therapists, speech pathologists and community nurses by way of individual and group contacts for children in the 0–5 age group. Parent Education groups will also be conducted at the centre.

This service will meet the needs of young children in the Cockburn area by providing a wide-ranging early intervention program for this target group.

The previous renovations that were carried out to the building has allowed for a benefit to clients and Community Health Staff. There are



limited alternative uses due to the land vesting for the building and it is a positive to have the building being used for the purpose that it was designed.

The Manager of Fremantle Health Services and community health staff have visited the site on several occasions and were very positive at the possibility of moving into the venue. Existing community health services operate out of the Southwell Child Development Centre. The services have outgrown the facility and this has led to an increase in waiting lists. The proposal is an expansion of the existing service and the Southwell facility will remain in operation.

The establishment of this new service in Cockburn would be a benefit to the parents of children within the City. An early intervention service such as that proposed is best practice for caring for the children in our community.

Strategic Plan/Policy Implications

To facilitate and provide an optimum range of Community Services.

Budget/Financial Implications

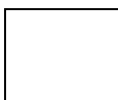
The proposed lease arrangement would include the requirement for South Metropolitan Health Service to pay all outgoings and general maintenance. The submission presented by the South Metropolitan Health Service proposes a rent fee of \$10,000 per month with no escalation. Given the proposed period of the lease, it is usual practice and prudent to include an escalation fee equal to the CPI Perth (all groups).

It is understood that the market (commercial) rent for this building would be in the order of \$23,000. Given that there is no requirement for a valuation by a Licensed Valuer, a formal valuation has not be undertaken. Cost of such a valuation (estimated \$2,000) could not be justified in this case.

Legal Implications

The Local Government (Functions and General) Regulations 1996, under Section 30(2)(c)(ii), allows Council to dispose of land to a "*department, agency, or instrumentality of the Crown in right of the State or the Commonwealth*".

A lease arrangement would formalise the areas of responsibility for the various parties.



Community Consultation

This is an initiative of Fremantle Community Health South Metropolitan Health Service in response to demands generated by the local community and the requirements of the Health Department staff.

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

Nil.

17.5 **(MINUTE NO 2325) (OCM 17/02/2004) - SOUTHERN DISTRICTS INLINE HOCKEY CLUB (8140) (AJ)**

RECOMMENDATION

That Council require the Southern Districts Inline Hockey Club to meet its outstanding debt of \$897.81 and should this amount not be received within 30 days of the notice of the debt, the club's rights to the use of the Joe Cooper Recreation Centre be withdrawn.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

This matter has come to the attention of the Audit Committee which was advised that a resolution would be sort through Council.

The City of Cockburn owns and maintains a number of Community Facilities that are hired by community organisations and individuals for a number of purposes.

Joe Cooper Recreation Centre, located at MacFaull Park Spearwood, has a number of areas that are available to the public for hire. It has a main floor which is approximately 852m² and may be used for a number of purposes including Inline Hockey, Boxing and the Children's Vacation Care Programmes run by the City of Cockburn.

There are currently six (6) regular hirers of the Joe Cooper Recreation Centre who generate total monthly income of approximately \$1,400 dependant upon usage. Of this amount, the Southern Districts Inline Hockey Club's monthly fee is approximately



\$500. The regular hirers of the City's facilities are invoiced on a monthly basis dependent upon their level of usage.

Submission

A letter has been received from Southern Districts Inline Hockey Club dated 21 January 2004, requesting that the total amount of \$897.81 owed be waived.

Report

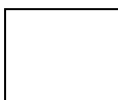
There is a dispute regarding the payment of hire fees owed by the Southern Districts Inline Hockey Club for the use of the Joe Cooper Recreation Centre during the month of February 2002.

At that time, the Southern Districts Inline Hockey Club had an agreement in place with the City of Cockburn for use of various areas of the Joe Cooper Centre. This amount was set at \$26,118.30 (excluding GST) per annum as per Agenda Item 17.2 at the December 2000 Council meeting. This was billed to the Southern Districts Inline Hockey Club in monthly instalments of \$2,394.15 (including GST) each and every month of the year for the period of the agreement.

In April 2002, the Southern Districts Inline Hockey Club requested that the agreement for hire be reviewed. As of July 2002, the agreement with the Southern Districts Inline Hockey Club was re-evaluated due to the club's usage patterns changing as a result of external influences by their state governing body and the club no longer requiring the facilities to the extent they previously had. The agreement was set aside in favour of the club being billed for their use of the facility as per the Council Fees and Charges Schedule and as set out in the City of Cockburn Budget 2002/03. Hence they were billed for their hourly use of the facility as any other public user is and no further agreement entered into. This resulted in a drop in income from the Southern Districts Inline Hockey Club from \$2,394.15 to approximately \$500 per month.

The Recreation Services were notified of a large amount outstanding from the Inline Hockey Club and correspondence was sent on 8 November 2002, requesting information why the debt was outstanding. The response from the Inline Hockey Club indicated that the floor was not ready for use.

The works mentioned were the repair of the floor along the expansion joint. This required some cutting and refilling of the joint. To date, the City's financial and purchasing records have not been able to show details of the works and for what time period they were carried out at the Joe Cooper Centre during the month of February 2002. Verbal communication with the City's Facilities Services Department have shown that, given the scope of the works and how the works were



undertaken, it would have rendered the facility unusable for approximately 2 days.

In January 2003, the City made the offer to reduce the amount owed by the club from \$2,394.15 to \$2,176.50 in lieu of the two days that the floor was not usable. The club's position had been that this was not satisfactory. After lengthy discussion with the club, the City then made another offer to reduce the amount owed to \$897.81 due to the inability to prove the length of time the facility was not able to be used by the club. This effectively meant that the club was only billed for 1.5 weeks out of 4 weeks for the month of February.

As of 30 January 2004, the club was up to date with all other payments.

In lieu of the correspondence dated 21 December 2000, stating that the club was to be billed the standard amount regardless of the club's specific usage each month and the verbal indications from the club that the facility was unusable for a period of two weeks, it is the City's position that the offer to reduce the amount owed to \$897.81 is a more than generous discount to the Southern Districts Inline Hockey Club and the City should pursue for collection of that amount.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

If the amount is not pursued, it will result in a general income deficit of \$897.81

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

18. EXECUTIVE DIVISION ISSUES



18.1 (MINUTE NO 2326) (OCM 17/02/2004) - APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER (2801) (RWB)

RECOMMENDATION

That Council appoints Mr Don Green, Director – Community Services, as Acting Chief Executive Officer for the period 8-12 March 2004 inclusive, during which period the Chief Executive Officer will be absent.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Cllr M Reeve-Fowkes that no action be taken to appoint an Acting Chief Executive Officer during the period of the Chief Executive Officer attending the UDIA Conference.

CARRIED 9/0

Explanation

Advice obtained from Council's Solicitors is that the appointment of an Acting CEO in the circumstances for conference attendance is not possible as the CEO is deemed to still be on duty.

Background

In 2001, Council delegated authority to the Chief Executive Officer (CEO) to appoint an Acting CEO or other Senior Employees (Directors) during periods of extended absence by those officers.

During 2003, Council indicated a desire to revoke the delegation in favour of a Policy which would enable Council to appoint staff to these positions on a rotational basis.

Legal advice was sought on the proposition, mainly on the basis of potential contractual obligations which may exist. The subsequent advice received indicated that, contractual obligations aside, the appointment of staff to acting positions other than the CEO is not within the ambit of Council, as this is a function of the CEO to perform.

This information was conveyed in a report to the Delegated Authorities, Policies and Position Statements (DAPPS) Committee in November 2003. In addition, the report mentioned that the matter of appointing the Acting CEO in future, would in the first instance, be a matter for negotiation between the CEO and the Director, Community Services in order to relinquish any existing contractual obligations resulting from the original appointment of the incumbent to that position (then titled Deputy City Manager/Town Clerk), subsequent cosmetic title changes and employment conditions re-negotiated since that time. It was



reported that this negotiation process should take place in March 2004, following the return of the CEO from annual leave.

The following DAPPS Committee recommendation was consequently adopted by Council at its Ordinary Council Meeting of December 2003:-

“That Council:-

- (1) revoke Delegated Authority LGA ES1 as attached to the Agenda;
- (2) note the intention of the Chief Executive Officer and Director Community Services, to facilitate an agreement which will allow for Council to rotate the appointment of an officer to act in the position of Chief Executive Officer during formalised periods of absence by the CEO; and
- (3) require the Chief Executive Officer to present to Council for consideration, a proposal detailing how future appointments as Acting Chief Executive Officer would be facilitated through a policy which will provide for Council to appoint a Director to the Acting CEO position for shared periods of time. “

Submission

N/A

Report

The Mayor and CEO are attending the Urban Development Institute of Australia (UDIA) Conference in Gold Coast from 8 – 11 March 2004.

As the previous authority delegated to the CEO to appoint a replacement to act in this capacity during periods of extended absence has been revoked, it is now necessary for Council to appoint an Acting CEO for the period during which the CEO will be absent on this occasion (8-12 March 2004).

As the agreement between the CEO and Director Community Services, mentioned in Council’s December 2003 decision, has not yet been determined due to annual leave commitments, it is suggested that Council maintain the status quo for the short period of relief required on this occasion (1 week), pending the formalising of the arrangement as noted by Council.

Upon such arrangements being completed, a Draft Policy will be developed and presented to the DAPPS Committee for consideration, in accordance with Council’s resolution.



Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.

Budget/Financial Implications

Relevant higher duties allowances are factored into Council’s salaries budget each year.

Legal Implications

Contractual obligations may exist which can be overcome by the approach contained in the December 2003 Council decision.

Community Consultation

N/A

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

Nil.

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

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

21.1 (MINUTE NO 2327) (OCM 17/02/2004) - WESTERN AUSTRALIAN POLICE SERVICE - PARTNERSHIP CONTRIBUTION - COCKBURN POLICE STATION (4325) (RWB)

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr A Edwards that Council:

- (1) contribute \$30,000 towards the upgrade of the former Officer-In-Charge’s residence at the Cockburn Police Station to accommodate the South Metropolitan District Support Group (DSG); and



- (2) transfer \$10,000 from account OP9444-6810 'Community Policing' and \$20,000 from account GL110-6110 'Conferences and Seminars' to fund the project, with the funds being reimbursed to the 'Conferences and Seminars' account as part of the April Budget Review.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0

Explanation

A request has been received from Mr Paul La Spina, Acting Superintendent South Metropolitan District, for Council to assist with the costs of renovations/upgrade of the residence adjacent to the Cockburn Police Station. The intention is to house the South Metropolitan District Support Group (DSG) in the building. It is considered that the presence of an additional 10 and up to 20 police officers operating within the district will provide significant benefit to Cockburn residents. The upgrade work includes carpeting and painting, outside rendering and landscaping, car park upgrading, minor building alterations and air-conditioning. An estimated cost for the works of \$62,700 has been provided. It is understood that savings may be achieved through different purchasing methods.

DEPUTY MAYOR GRAHAM RETURNED TO THE MEETING AT 8.10PM, DURING DISCUSSION OF THE FOLLOWING ITEM.

21.2 (MINUTE NO 2328) (OCM 17/02/2004) - ELECTED MEMBER REPRESENTATION - MUSEUM ADVISORY COMMITTEE (1701) (DMG)

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr K Allen that Council:

- (1) remove Deputy Mayor Graham as a Committee member of the Museum Advisory Committee; and
- (2) appoint Clr Limbert as a member of the Museum Advisory Committee.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0

Explanation

Deputy Mayor Graham wishes to be removed from the Museum Advisory Committee and be replaced by Clr Limbert.



22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Nil

23. CONFIDENTIAL BUSINESS

Nil

24. (MINUTE NO 2329) (OCM 17/02/2004) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)

RECOMMENDATION

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

- (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.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Cllr A Tilbury that the recommendation be adopted.

CARRIED 10/0

25 (OCM 17/02/2004) - CLOSURE OF MEETING

Meeting closed at 8.11pm.

CONFIRMATION OF MINUTES

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

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

