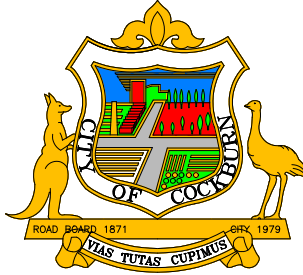


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**THURSDAY, 9 JUNE 2011**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 9 JUNE 2011 AT 7:00 PM

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**CITY OF COCKBURN****AGENDA TO BE PRESENTED TO THE ORDINARY  
COUNCIL MEETING TO BE HELD ON  
THURSDAY, 9 JUNE 2011 AT 7:00 PM**

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1. **DECLARATION OF MEETING**
2. **APPOINTMENT OF PRESIDING MEMBER (If required)**
3. **DISCLAIMER (To be read aloud by Presiding Member)**

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

4. **ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**
5. **APOLOGIES AND LEAVE OF ABSENCE**
6. **ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**  
Nil
7. **PUBLIC QUESTION TIME**
8. **CONFIRMATION OF MINUTES**
  - 8.1 **(OCM 9/6/2011) - ORDINARY COUNCIL MEETING - 12/05/2011**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 12 May 2011, as true and accurate record.

**COUNCIL DECISION**

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

**10. DEPUTATIONS AND PETITIONS**

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

Nil

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

**13. COUNCIL MATTERS**

**13.1 (OCM 12/5/2011) - PROPOSED NEW DELEGATED AUTHORITY LGASFCS 9 'ACQUISITION AND DISPOSAL OF PROPERTY' (CC/P/098) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) adopt proposed new Delegated Authority LGAFCS9 'Acquisition and Disposal of Property', as shown in the attachment to the Agenda; and
- (2) update the Delegated Authority Register accordingly.

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

**COUNCIL DECISION**

## Background

At the Council Meeting held on 9 December 2010, Council resolved (in part) as follows:

- (3) *subject to final Council approval to construct the Cockburn Integrated Health and Community Facility and in accordance with Sec. 3.58 of the Local Government Act 1995, delegate authority to the Chief Executive Officer to negotiate Agreements to lease and leases for tenancies within the Integrated Health and Community Facility.*

*It should be noted that sub-recommendation (3) above can only be effected following the determination by Council which sets a limit on the value of transactions delegated to the CEO.*

Further at the Council Meeting held on 14 April, 2011, council resolved (in part) as follows:

- (5) *require a Policy to be presented for consideration at a future meeting to determine the value of land transactions to be delegated for the Chief Executive Officer to negotiate on behalf of Council, in accordance with Section 5.43(d) of the Local Government Act, 1995.*

## Submission

To adopt the instrument of delegation, as attached, which determines the value of transaction which may be considered as a condition of the delegation.

## Report

'Acquisition and Disposal' of property, pursuant to the provisions of the Local Government Act, 1995, is defined as 'to sell, lease or otherwise (acquire or) dispose of, whether absolutely or not'.

In order to ascertain the value of transactions which are appropriate for delegations by Council in accordance with this proposal, calculations have been made on typical lease arrangements considered by Council recently.

The calculations relate to offers considered recently by Council and which could be defined as reasonably straight forward in nature.

The total value of these transactions can be between \$500K and \$750K, taking into consideration a typical lease term, occupancy area and rental payable. On this basis it is recommended that the upper

limit of this range (ie. \$750K) be the sum up to which the Chief Executive Officer is authorised to conduct these transactions on behalf of Council.

In order to determine the level of impact this decision would have, an investigation into past Council decisions relative to these functions over the previous 5 years was undertaken.

There were 51 such transactions considered by Council. Statistically, these can be categorised as follows:

Leaseholds/Licences	33
Sales/Purchases	18

The Leasehold/Licence arrangements are identified as:

Private Arrangements	12
Not-for-profits	9
Local Community Groups	8
Government	4
<b>Total</b>	<b>33</b>

The Sales/Purchases are identified as:

Private Arrangements	15
Government	3
<b>Total</b>	<b>18</b>

Of the 51 transactions, 43 had a value of less than \$750,000, with the remaining 8 being above that threshold.

45 of the transactions were adopted by Council in accordance with the officer recommendations, with the remaining 6 being amended, in some form, prior to being adopted by Council.

Given that the Local Government Act, 1995, furthermore defines the value of a 'major land transaction' as one being worth more than \$1 million, it would appear that the subject value being proposed of \$750,000 is reasonable for the purpose of the exercise.

It is contended that this sufficiently demonstrates that there is scope for this task to be conditionally delegated for the approval of the Chief Executive Officer to perform, as an administrative function.

As a condition of this delegation, it is proposed that the details of any transactions be forwarded to Elected Members in advance, thus



allowing the matter to be considered by Council, should any Elected Member believe it would be more appropriate for Council to decide any particular case.

**Strategic Plan/Policy Implications**

**Governance Excellence**

- To develop and maintain a financially sustainable City.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

Proposed new Delegated Authority LGAFCS9 'Acquisition and Disposal of Property'.

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

N/A

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

Nil

**13.2 (OCM 9/6/2011) - REVIEW OF DELEGATED AUTHORITIES (CCP/P/098) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt proposed amendments to the following Delegated Authorities, as attached to the Agenda:
  1. LGAES11 – Local Government Act 1995 – Execution of Documents;
  2. LGAFCS1 – Local Government Act 1995 – Advertising Proposed Differential Rates;

3. LGAFCS4 – Local Government Act 1995 - Payments from Municipal and Trust Funds;
  4. LGAFCS5 – Local Government Act 1995 – Recovery of Rates and Service Charges – Leased Properties;
  5. LGAFCS8 – Local Government Act 1995 - Corporate Credit Cards;
  6. SFCS1 – Investments;
  7. AFCS2 – Leasing of Controlled Land;
  8. AFCS3 – Disposal of Assets;
  9. AFCS7 – Use of Cab Charge Vouchers; and
- (2) update the Delegated Authority Register accordingly.

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

#### **COUNCIL DECISION**

#### **Background**

It is a requirement to review the Delegated Authority to staff each financial year, pursuant to Sec. 5.46 of the Local Government Act, 1995.

#### **Submission**

To adopt the documents containing delegations to staff, as proposed in the attachments.

#### **Report**

The instruments of delegation, as attached, have been reviewed by staff and are considered appropriate for Council to adopt in their presented form. Minor amendments, ie. change of title, have been made to delegations as follows:

- LGAES11 – Local Government Act 1995 – Execution of Documents – to enable documents requiring execution (without the City Seal) to be signed by Staff other than the Chief Executive Officer.
- LGAFCS1 – Local Government Act 1995 – Advertising Proposed Differential Rates - change of title of delegate authorised from Manager, Finance to Manager, Financial Services.
- LGAFCS4 – Payments from Municipal and Trust Funds - change of title of delegate authorised from Financial Accountant to Accounting and Financial Control Manager and Manager, Budgeting and Management Accounting to Manager, Financial Services.
- LGAFCS5 – Local Government Act 1995 – Recovery of Rates and Service Charges – Leased Properties - change of title of delegate authorised from Manager, Budgeting and Management Accounting to Manager, Financial Services.
- LGAFCS8 – Corporate Credit Cards – change of title of delegate authorised from Manager, Budgeting and Management Accounting to Manager, Financial Services.
- SFCS1 – Local Government Act 1995 – Investments – change of title of delegate authorised from Manager, Budgeting and Management Accounting to Manager, Financial Services.
- AFCS2 – Leasing of Controlled Land - change of title of delegate authorised from Manager, Budgeting and Management Accounting to Manager, Financial Services, with a minor amendment to delete reference to the ‘Valuer General’ and substitute ‘Sworn Valuer’.
- AFCS3 – Disposal of Assets - change of title of delegate authorised from Manager, Budgeting and Management Accounting to Manager, Financial Services.
- AFCS7 – use of cab vouchers – removal of one delegate.

All other delegations have been reviewed by the Delegator (CEO) and are considered suitable in their current form, as shown in the attachments.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

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

### **Budget/Financial Implications**

All financial implications contained within the reviewed Register of Delegations to Officers are accounted for within the current Budget.

### **Legal Implications**

Sec. 5.46 (2) of the Local Government Act, 1995 refers.

### **Community Consultation**

N/A

### **Attachment(s)**

Various instruments of Delegated Authority, noting the following:

1. Proposed amended Delegated Authority LGAES11 'Execution of Documents'.
2. Proposed amended Delegated Authority LGAFCS1 'Advertising Proposed Differential Rates'.
3. Proposed amended Delegated Authority LGAFCS4 'Payments from Municipal and Trust Funds'.
4. Proposed amended Delegated Authority LGAFCS5 'Recovery of Rates and Service Charges – Leased Properties'.
5. Proposed amended Delegated Authority LGAFCS8 'Corporate Credit Cards'.
6. Proposed amended Delegated Authority SFCS1 'Investments'.
7. Proposed amended Delegated Authority AFCS2 'Leasing of Council Controlled Land'.
8. Proposed amended Delegated Authority AFCS3 'Disposal of Assets'.
9. Proposed amended Delegated Authority AFCS7 'Use of Cab Charge Vouchers'.

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

N/A

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

Nil.

**13.3 (OCM 9/6/2011) - CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT (CC/L/010) (P WESTON) (ATTACH)****RECOMMENDATION**

That Council

- (1) support the position of the Australian Local Government Association (ALGA) that a referendum be held in 2013 for the constitutional recognition of local government; and
- (2) advise the Australian Local Government Association (ALGA) and the Western Australian Local Government Association (WALGA), accordingly.

**COUNCIL DECISION****Background**

The federal system of government in Australia was established with the assent of the *Commonwealth of Australia Constitution Act 1900 (Cth)*. The Constitution provides powers to the Federal Parliament for the establishment of good government and further identifies the powers of, and the relationships between, the Legislative, Executive and Judicial arms of government.

The *Constitution Act 1889 (WA)* provides for the establishment of government in Western Australia. Local governments are established by statute, namely the *Local Government Act 1995 (WA)*.

There is no recognition of local government in the Commonwealth Constitution.

There has been a long history of debate on constitutional recognition of local governments in Australia, with referendums having previously been put before the voters in 1974 and 1988, with both being defeated.

## Submission

N/A

## Report

Following the 2010 Federal Election, the Federal Labor Government committed to holding a referendum for the constitutional recognition of local government. This referendum is likely to be held in conjunction with the 2013 Federal Election.

A national position was developed at the Local Government Constitutional Summit in 2008 which has been refined by the ALGA Board to focus the referendum on financial recognition.

The need for constitutional amendment has been expedited by the High Court case of *Pape v Commissioner of Taxation [2009] HCA 23*.

In this case, a Mr Bryan Pape, barrister and law lecturer, instigated proceedings in the High Court arguing the former Rudd Government did not have the constitutional power to issue the \$900 bonus to 8.7 million taxpayers as part of the government's economic stimulus package.

The outcome of the *Pape* case highlighted the fact that the Federal Government did not necessarily have the constitutional power to provide funding in particular to local governments.

As a result the High Court has set out the limitations of Federal Government power and, in doing so, clearly indicated that they do not have the power to directly fund local governments in specific circumstances.

As there is no recognition of local government in the Constitution, the Federal Government's ability to fund local governments directly is severely limited. It is in the best interest of local communities that Federal Governments have the capacity to fund local governments directly.

ALGA proposes that Section 96 of the Constitution be amended to recognise local governments and allow for direct funding. If there was to be a proposal to recognise local governments in the Preamble to the Constitution, then according to ALGA, this should also be supported. Preamble recognition alone would only provide limited recognition and would not meet local government requirements or address the uncertainty highlighted by the *Pape* case.

The form of financial recognition proposed by ALGA is unlikely to impact on the relationship between local and State governments. In conclusion, it is considered important that Councils support ALGA's proposal in order to demonstrate to both Federal and State governments that it has widespread support within the local government sector.

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

As provided in the report.

### **Community Consultation**

N/A

### **Attachment(s)**

1. Correspondence received from ALGA – Constitutional Recognition of Local Government – A role for Councils.
2. Correspondence received from WALGA dated 22 March 2011.

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

N/A

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

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM 9/6/2011) - PROPOSED STRUCTURE PLAN - LOCATION: WATSON ROAD AND VIEW STREET, BEELIAR - OWNER: VARIOUS - APPLICANT: BURGESS DESIGN GROUP (SM/M/047) (D DI RENZO) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) endorse the Schedule of Submissions prepared in respect of the Proposed Structure Plan for Watson Road;
- (2) adopt the Proposed Structure Plan pursuant to Clause 6.2.9.1(a) of City of Cockburn Town Planning Scheme No. 3 ("Scheme") subject to the following modifications being undertaken first:
  1. The Water Corporation wastewater sewer main on Lot 82 View Street being incorporated within a widened road verge, as shown in Attachment 3.
  2. The proposed lots on Lot 82 View Street, Beeliar being coded 'Residential R40', and annotated as being subject to a Detailed Area Plan as shown in Attachment 3.
  3. Inclusion of an annotation on the Structure Plan that uniform fencing is required for the R40 coded lots on Lot 82 View Street adjacent to the widened road reserve.
  4. Inclusion of an annotation on the Structure Plan that a wall will be constructed along the boundary adjacent to the Stock Road and Beeliar Drive reservations for noise attenuation purposes.
- (3) refer the Structure Plan to the Western Australian Planning Commission with a request for endorsement in accordance with Clause 6.2.10 of the Scheme; and
- (4) advise the proponent that Council is currently in the final processes of an amendment to the Scheme, which seeks to introduce new developer contribution arrangements across the City towards community infrastructure. Landowners subdividing to create residential allotments and/or developing grouped/multiple dwellings will be required to make contributions in accordance with the new developer contribution arrangements once the Scheme Amendment becomes operational. This is expected mid-2011.



**COUNCIL DECISION****Background**

Council has received a Proposed Structure Plan for the area in Beeliar bound by Beeliar Drive to the North, Watson Road to the east, the 'Primary Regional Roads' reservation to the west, and Lots 82 and 83 Watson Road to the south (refer to location plan within Attachment 1).

The subject land is zoned 'Development' and is within 'Development Area 4' (DA 14) and 'Developer Contribution Area 4' (DCA 4) pursuant to City of Cockburn Town Planning Scheme No. 3 ("Scheme")

A portion of the subject land (the area excluding Lots 82 and 83 View Street) is subject to an endorsed Structure Plan (Pt Lot 451 Watson Road) which was adopted by Council on 11 December 2008, and endorsed by the Western Australian Planning Commission ("WAPC") 22 April 2009 (contained within Attachment 4).

The WAPC subsequently granted subdivision approval on 1 May 2009 for the creation of all lots in accordance with the existing Structure Plan (WAPC Ref No. 139266). Stage 1 of the subdivision has been implemented whereby a grouped housing site (Lot 17 Andy Zuvela Road) and 16 of the single residential lots have now been created in accordance with this subdivision approval. The remaining land, including the proposed public open space ("POS") has been left within a balance lot for stage 2 of the subdivision.

The Proposed Structure Plan incorporates modifications to the stage 2 portion of the existing Structure Plan, and also encompasses the two lots to the south of the existing Structure Plan area (Lots 82 and 83 Watson Road, Beeliar).

The Proposed Structure Plan was adopted for community consultation under delegated authority, and was subsequently advertised for a period of 21 days in accordance with the Scheme, ending on 8 March 2011. The purpose of this report is for Council to consider adopting the Proposed Structure Plan for final approval.

**Submission**

The Proposed Structure Plan has been submitted by the applicant in order to facilitate the creation of an additional grouped housing site. It also proposes to make more efficient use of useable land by shifting proposed POS onto land constrained by a Water Corporation wastewater sewer main.

The applicant has submitted a Structure Plan report in support of the proposal.

## **Report**

### Proposal

The Proposed Structure Plan (Attachment 2) shifts the central area of POS shown on the existing Structure Plan southward to create an additional grouped housing site immediately adjacent to the existing grouped housing site (Lot 17 Andy Zuvella Road, currently undeveloped) created as part of stage 1. This is part of an agreement between the subject landowners to develop their land in a coordinated manner.

With the exception of the relocation of the POS and the creation of a new grouped housing site, the zonings shown on the existing Structure Plan remain unchanged.

Stage 2 of the subdivision is proposed to include the creation of the POS, the creation of the R30 lots adjacent to Watson Road, and the creation of the additional grouped housing site.

The Proposed Structure Plan (Attachment 2) includes a logical extension of the roads shown on the existing Structure Plan. This will allow the road network to be further extended into future Structure Plan(s) to the south, and the indicative road layout included on the Proposed Structure Plan shows how this could be achieved.

A significant section of Lots 82 and 83 View Street is constrained by a Water Corporation wastewater sewer main. The Proposed Structure Plan (Attachment 2) includes 'Residential R25' over the wastewater sewer main on Lots 82 and 83 View Street. This would facilitate three large lots which incorporate the future easement over the wastewater sewer main, with sufficient area outside the easement for future dwellings and associated structures to be built.

The Proposed Structure Plan (Attachment 2) also includes an R40 grouped housing site adjacent to Watson Road on Lot 83 View Street, on land which is not constrained by the wastewater sewer main.

## Planning Assessment

The Proposed Structure Plan (Attachment 2) demonstrates adequate provision of POS in accordance with R4 of *Liveable Neighbourhoods*. It achieves a minimum of 10% POS over the stage 1 and 2 areas (to be undertaken by the proponent), as well as across the whole Structure Plan area.

The 655m<sup>2</sup> POS/drainage area adjacent to Watson Road incorporates a stormwater detention area, and is classified as 'Restricted Use POS'. This constitutes less than 2% of the total 10% proposed POS, consistent with *Liveable Neighbourhoods* (R4 and R5).

It is considered that the Proposed Structure Plan (Attachment 2) facilitates more efficient use of urban land by incorporating a portion of the Water Corporation wastewater sewer main within POS (to be contained within an easement). This land is constrained and cannot be developed for residential purposes, therefore incorporating a portion of the future easement into POS is the highest and best use for this land. The Proposed Structure Plan therefore facilitates an additional grouped housing site on unconstrained land.

During the advertising period an objection was received from the Water Corporation advising that they do not support the creation of 'R25' residential lots over the wastewater main sewer, notwithstanding the fact no structures would be built over the easement.

The wastewater main is a key asset transferring wastewater from a large catchment and is approximately 2m in diameter. The Water Corporation require gravity wastewater mains greater than 300mm to have greater levels of protection compared to gravity wastewater reticulation less than 300mm. Accordingly the Water Corporation have advised that they require the wastewater main to be located in the first instance in either a road reserve or in the second instance within POS with a 12m easement.

To address this issue the applicant has proposed a revised Structure Plan which alternatively incorporates the wastewater sewer main on Lot 82 within a widened road verge area (Attachment 3). This verge area would be attractively landscaped, and the applicant has submitted a concept plan demonstrating how this can be achieved (Attachment 6).

Adjacent to this widened road verge (containing the wastewater sewer main) a residential coding of R40 is proposed in the revised Structure Plan (with lots approximately 250m<sup>2</sup>), subject to a Detailed Area Plan. The Detailed Area Plan will specify the design of dwellings on these

lots to ensure an appropriate interface is achieved with the adjacent residential R25 zoned land, and the widened verge area.

It is also recommended that uniform fencing be required adjacent to the proposed widened road reserve, so that an attractive, integrated interface and streetscape is achieved.

The existing Structure Plan (Attachment 4) includes an annotation stating that a wall will be constructed along the boundary adjacent to the Stock Road and Beeliar Drive reservations for noise attenuation purposes. It is recommended that this annotation also be included on the revised Structure Plan to be adopted for final approval.

It is recommended that the proponent be advised that Council is currently in the final processes of an amendment to the Scheme, which seeks to introduce new developer contribution arrangements across the City towards community infrastructure. This amendment will impact on landowners undertaking residential subdivisions and/or developing grouped/multiple dwellings, as they will be required to make contributions in accordance with the new developer contribution arrangements once the Scheme Amendment becomes operational.

### Conclusion

The Proposed Structure Plan facilitates more efficient use of urban land by incorporating a portion of the Water Corporation wastewater sewer main within POS, allowing the creation of an additional grouped housing site on unconstrained land.

It is considered that the modifications outlined in the revised Structure Plan (Attachment 3) adequately address the concerns raised by the Water Corporation. Accordingly it is recommended that Council adopt the Proposed Structure Plan for final approval, subject to the modification discussed in this report and outlined in the recommendations.

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

N/A

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

### **Employment and Economic Development**

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

**Transport Optimisation**

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

**Budget/Financial Implications**

The Structure Plan fees for this proposal have been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising and this has been paid by the applicant.

**Legal Implications**

N/A

**Community Consultation**

Community consultation was undertaken in accordance with the requirements of the Scheme, and the Proposed Structure Plan was advertised from 15 February 2011 to 8 March 2011. This included letters to surrounding landowners, government agencies, and an advertisement in the Cockburn Gazette on 15 February 2011.

The City received a total of six submissions from government agencies, and no submissions from adjacent landowners or members of the community. There was one objection received from the Water Corporation, and five submissions of support. All of these submissions are outlined and addressed in the Schedule of Submissions (Attachment 5).

**Attachment(s)**

1. Location Plan
2. Proposed Structure Plan (as advertised)
3. Revised Proposed Structure Plan
4. Current Structure Plan (Pt Lot 451 Watson Road)
5. Schedule of Submissions
6. Verge Landscaping Concept Plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 June 2011 Council Meeting.

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

Nil.

**14.2 (OCM 9/6/2011) - DRAFT TOWN PLANNING SCHEME AMENDMENT NO. 83 - INSERTING ADDITIONAL USE OF 'SHOP' AT LOTS 7-14 AND 16-24 ON LOT 256, 40 PORT PIRIE STREET, BIBRA LAKE (STOCK ROAD MARKETS) (93083) (C CATHERWOOD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) endorse the schedule of submissions prepared in respect of Amendment No. 83 to City of Cockburn Town Planning Scheme No. 3 ("Scheme");
- (2) modify the advertised version of Amendment No. 83 to the Scheme to also include a maximum tenancy size of 500m<sup>2</sup> GLA;
- (3) adopt for final approval Amendment No. 83 to the Scheme for the purposes of:
  1. Allowing the additional use of shop at Lots 7-14 and 16-24 on Lot 256, 40 Port Pirie Street, Bibra Lake.
  2. Inserting the new Additional Use No. 18 provisions into Schedule 2 of the Scheme Text as follows:

No	Description of Land	Additional Use	Conditions
AU 18	Strata Lots 7-14, and 16-24 on SP 20182, 40 Port Pirie Street, Bibra Lake.	Shop: subject to the total retail floor space being restricted to a maximum of 2000m <sup>2</sup> GLA and a maximum tenancy size being restricted to 500m <sup>2</sup> .	Planning Approval.

- (4) modify the amendment documentation in accordance with 2, and sign and seal without further modification, then submit the documentation to the Western Australian Planning Commission, along with the endorsed schedule of submissions with a request for the endorsement of final approval by the Hon. Minister for Planning; and
- (5) advise those parties that made a submission of Council's decision accordingly.

**COUNCIL DECISION****Background**

At its Ordinary meeting held 11 February 2010, Council initiated Amendment No. 83 to City of Cockburn Town Planning Scheme No. 3 ("Scheme") to consider the additional use of 'shop' at Lots 7-14 and 16-24 on Lot 256, 40 Port Pirie Street, Bibra Lake. These are a selection of tenancies contained within the Stock Road Markets complex.

Community consultation occurred between 15 March and 27 April 2011, a period of 43 days. A number of submissions were received. As per Section 17 of the *Town Planning Regulations 1967*, this matter is now presented for Council's consideration following advertising being undertaken.

**Submission**

N/A

**Report**

The report to Council to consider initiating the amendment discussed in significant detail the basis for the amendment, and any planning issues of consequence. It is not intended to repeat all of the above issues in this report, except where they relate to an issue raised in the submission period or where a change is recommended to the amendment from the version advertised.

On review of the submissions received, there appears to be some confusion with what the amendment proposes. The 'market' use remains in place and applies to the larger strata lots (15 and 25) which include the large area beneath the 'big top' building. Market means: *'premises used for the display and sale of goods from stalls by independent vendors'*.

This proposal relates to the other smaller strata tenancies to the west and north of the 'big top' building. It proposes the additional use of 'shop' which means: *'premises used to sell goods by retail, hire goods or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom, fast food outlet,*

*bank, farm supply centre, garden centre, hardware store, liquor store and nursery'.*

A key difference in these uses is the notion of a stall (in the case of a 'market') and premises (in the case of a 'shop'). The strata lots covered by this proposal (7-14 and 16-24) are individual tenancies/premises. It is in this sense that they are different to a 'stall' which could exist under the 'big top' building and what is commonly seen in most markets.

Concern was also raised about the possible redevelopment scenario which could eventuate if the amendment was approved in the current form. In particular, the concern that a small to medium size supermarket could be accommodated especially if a number of adjoining tenancies was grouped together through an acquisition process. This concern is quite valid and this was certainly not the intent of the amendment. In response to this concern, it is recommended that a modification be included to cap the maximum tenancy size as well.

Looking at the current strata plan, the strata lots subject to this amendment average 361m<sup>2</sup>. The submission suggests a cap of 400-500m<sup>2</sup> which seems a reasonable figure to use. Four of the strata lots are larger than 500m<sup>2</sup> as indicated below. However the building area for three of these is less than 500m<sup>2</sup>.

Strata lot 16 = 811m<sup>2</sup> (total of buildings = 530m<sup>2</sup>)

Strata lot 17 = 503m<sup>2</sup> (building = 456m<sup>2</sup>)

Strata lot 23 = 544m<sup>2</sup> (building = 333m<sup>2</sup>)

Strata lot 24 = 695m<sup>2</sup> (building = 98m<sup>2</sup>)

The exception being a patio/shed company on strata lot 16 which has a collection of display structures totalling 530m<sup>2</sup>. This business is a showroom so there would be no impact on them.

It is recommended the maximum tenancy size of 500m<sup>2</sup> be included for the proposed additional use of 'shop'. It is recommended this amendment be endorsed by Council, subject to this modification.

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

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.



**Employment and Economic Development**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

A number of tenancies are currently undertaking uses without the necessary planning approval. Should Council determine not to proceed with this amendment, there would be compliance actions which would need to resume. While this amendment has been prepared for Council's consideration, no compliance actions have been undertaken.

**Community Consultation**Method of consultation

Community consultation occurred between 15 March and 27 April 2011, a period of 43 days.

Letters were sent to tenants and landowners within the Stock Road Markets site and adjoining landowners at the commencement of this period. An advertisement was also placed in the Cockburn Gazette on 15 March 2011 as well as notification on the 'public consultation' page of the City's website. A project page has also been available on the City's website since late December 2010 which included a copy of the draft amendment. All tenants and landowners within the Stock Road Market site were advised of this project page in early January 2011. This provided the opportunity to view the draft Scheme amendment documentation prior to the formal consultation period commencing.

Outcome of consultation period

Seven submissions were received. Five were in support of the amendment. One objected to the inclusion of the 2000m<sup>2</sup> limitation. One objected on the basis the amendment in its current form could provide a redevelopment opportunity into a medium size supermarket. This submission recommended inclusion of a tenancy size limitation as well.

The submissions are discussed in further detail in the attached Schedule of Submissions.

Changes arising from submissions received

One change has been recommended to the proposed amendment, as discussed in the 'Report' section further above.

It is recommended the maximum tenancy size of 500m<sup>2</sup> be included for the proposed additional use of 'shop'. This will ensure the intent of the amendment is not lost should a redevelopment proposal be received in the future.

**Attachment(s)**

Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 June 2011 Council Meeting.

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

Nil.

**14.3 (OCM 9/6/2011) - OFFER TO SELL LAND TO CITY OF COCKBURN - LOCATION: PORTION OF LOT 341 LAKEFRONT AVENUE, BEELIAR - OWNER/APPLICANT: DEPARTMENT OF HOUSING/PRM JOINT VENTURE (6007077) (K SIM)**

**RECOMMENDATION**

That Council defer consideration of the matter until a future Ordinary Council Meeting.

**COUNCIL DECISION**

**Background**

At the Ordinary Council Meeting held on 14 April 2011, Council considered an offer from the landowner for Council to purchase the existing car park located on portion of Lot 341 Lakefront Avenue,

Beeliar. The Council resolved to defer the item to the Ordinary Council Meeting to be held on 12 May 2011, to allow for community consultation on the proposal.

At the Ordinary Council Meeting held on 12 May 2011, Council deferred consideration of the matter again until the June 2011 Ordinary Council Meeting, to allow for further consultation and meetings with the landowner to occur. The purpose of this report is to update Council on the progress of this consultation and meetings, and to advise Council that this matter still requires further consideration before it can be put back for final consideration.

### **Submission**

N/A

### **Report**

Following the 14 April 2011 Council meeting a mail out was sent to all the organisations that use the sports fields and the Beeliar Community Centre, including the Beeliar Residents Action Group ("BRAG"). The mail out was also sent to landowners who would be potentially affected by any decision to relocate the car parking to the south side of the sports fields along The Grange.

The mail out provided details of the number of car parking bays currently located near the entrance to the Community Centre, and the number that would be removed if the City did not take up an option to purchase portion of Lot 341 Lakefront Avenue, the land owned by the Department of Housing. The mail out went on to describe how alternative parking could be provided elsewhere on Reserve 45286.

Included was a plan of the existing car park within Lot 341 and also where alternative car parking could be established in Reserve 45286 off The Grange. As mentioned above, as this alternative car parking location could have an impact on houses on the opposite side of The Grange, the mail out was also sent to all landowners fronting The Grange between Waitch Loop and Hybanthus Loop, Beeliar. The mail out asked for responses by 18 May 2011.

To date responses to the mail out have included three individual letters from residents, a letter from BRAG, a letter from the Department of Housing Joint Venture Partner PRM and a petition containing 116 signatures. A full analysis of the responses has yet to be made, although it is clear that there is opposition to the clearing of any vegetation on Reserve 45286 for the construction of a new car park. There is also a general concern that the City and the Department of

Housing cannot negotiate a more favourable financial outcome to maintain the car parking in its present form and located.

On 5 May 2011 a meeting was held onsite with Council officers and representatives of BRAG in attendance. At this meeting BRAG representatives, while sympathetic to the City's reticence in spending such a large sum of money for 25 car bays, were adamant that the alternative car park was not a realistic proposition for the users of the Community Centre. This was especially the case in the evening where issues of personal safety and vehicle security were of major concern.

A follow-up meeting to be attended by representatives of the Department of Housing, Mayor Howlett, Clr Limbert, Clr Oliver and Council Officers has been organised onsite for 1 June 2011.

Given the ongoing nature of the community consultation, it is not possible for a report to be presented at the June meeting. It is hopeful however that the meeting organised for 1 June 2011 may provide some additional consideration and dialogue between the City and the landowner to seek whether a middle ground can be secured in relation to the matter.

The purpose of this report is for Council to note that community consultation is currently being undertaken, in relation to the proposed replacement car parking for the Beeliar Community Centre and associated sporting reserve (Reserve 45286), with a report on the matter, including the results of the consultation, to be presented at the a future Ordinary Council Meeting.

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

#### **Demographic Planning**

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

#### **Infrastructure Development**

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

#### **Governance Excellence**

- To develop and maintain a financially sustainable City.

### **Budget/Financial Implications**

To be discussed as part of the future report back to Council on the matter in June.

**Legal Implications**

N/A

**Community Consultation**

Community consultation is currently underway, involving a mail-out to affected landowners as well as users of the Beeliam Community Centre and sports reserve and an onsite meeting with the Beeliam Residents Association Group.

**Attachment(s)**

N/A

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

N/A

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

Nil.

**14.4 (OCM 9/6/2011) - PROPOSED LOCALITY BOUNDARY AMENDMENT BETWEEN ATWELL AND BANJUP TO REALIGN TO CENTRELINE OF TAPPER ROAD IN VICINITY OF LOT 30 TAPPER ROAD AND LOT 31 MYALL PLACE (SM/L/003) (C CLARK/A TROSIC) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) requests the Geographic Names Committee to:
1. Amend the locality boundary between Atwell and Banjup to follow the centreline of realigned Tapper Road in the vicinity of Lot 30 Tapper Road and Lot 31 Myall Place.
  2. Un-name the unmade portions of the original Tapper Road alignment, given they no longer function to provide public road access.
  3. Extend the Myall Place road name to complete the full extent of this road.
- (2) advise affected landowners of Council's decision accordingly.

**COUNCIL DECISION**

**Background**

A request has been received from the Geographic Names Committee to amend the locality boundary between Atwell and Banjup to follow the centreline of realigned Tapper Road, in the vicinity of Lot 30 Tapper Road and Lot 31 Myall Place. This request was received by email dated 4 April 2011, a copy of which is attached to the Agenda (Attachment 1). Tapper Road has been deviated to run along the western boundaries of Lots 30 and 31, and accordingly the need to amend this locality boundary to follow the road centreline has arisen.

This amendment will result in a logical definition between the residential locality of Atwell which exists west of deviated Tapper Road, and the rural locality of Banjup which exists east of deviated Tapper Road. The positioning, zoning and nature of permitted development on Lots 30 and 31 is such that they are appropriate to be designated within the locality of Banjup, and not Atwell as is currently the case.

It is important that this inconsistency be corrected, particularly to ensure the appropriate and consistent provision of street addressing and emergency service access.

At the same time as this, it is appropriate that the City request the now unmade portions of the original Tapper Road alignment to be unnamed, given they no longer function to provide public road access. Finally the City needs to also request a minor road naming extension of Myall Place, to complete the full extent of this road. Attachment 2 identifies the three proposals in visual detail.

It is recommended that Council proceed with the locality boundary change and road naming changes to ensure the continued provision of consistent street addressing and emergency service access.

**Submission**

The two affected landowners (Lots 30 and 31) have lodged written objections to the locality boundary change (refer Attachment 5) - Table of Submissions). This report considers the proposal in light of these objections.

## Report

The affected land was originally part of Jandakot suburb before the suburb of Atwell was created. At that time the original Tapper Road was kept as a logical alignment in which to designate between Atwell and Banjup. While the zoning of Lots 30 and 31 did not permit residential development to occur (being above the land designated for the Jandakot Water Mound), their location on the western side of the original Tapper Road resulted in them being included within Atwell. Attachment 3 shows this original designation in detail, taken from a 1989 street directory.

Along with the development of Atwell, Tapper Road was eventually realigned to create a safe and continuing road passage, compared with the original alignment which had several dangerous right angle bends in it. Attachment 4 shows the road deviation being secured by way of Plan 21361, approved on 16 May 1996. The successful realignment of Tapper Road has created the situation whereby it is now appropriate to amend the locality boundary between Atwell and Banjup to follow the centreline of the realigned Tapper Road, in the vicinity of Lot 30 Tapper Road and Lot 31 Myall Place.

The State Government Authority charged with making decisions of this type is the Geographic Names Committee. They have specifically requested the City to undertake advertising and consideration of this locality adjustment, so as to reflect their 'Principles, Guidelines and Procedures' policy document. This document applies throughout WA, and provides policy guidance to how geographic names (particularly localities), should be applied. In this respect the document provides the following information:

### Locality Boundaries

*Boundaries to be established in accordance with the following:-*

1. *Natural boundaries i.e. rivers, shorelines and creeks.*
2. *Centreline of major highways, divided carriageways, other roads, and railways.*
3. *Local Government boundaries.*

*Boundaries currently along the back of lots facing a road are to be maintained where it is relevant to postal deliveries or where residents and local government currently accept such boundaries and do not desire a change.*

Point 2 is pertinent to the situation at hand. It is appropriate to have the localities of Atwell and Banjup defined by the centreline of realigned Tapper Road, on the basis that it provides a logical boundary between

the urban localities of Atwell compared with the rural locality of Banjup. From a land use permissibility and relationship viewpoint, it is apparent that only land west of realigned Tapper Road is able to be developed for urban purposes. Land to the east of realigned Tapper Road exists above the Jandakot Water Mound, and is governed by State Planning Policy No. 2.3 which does not permit urban development to take place. Reflecting this, Lots 30 and 31 are zoned the same way in which the locality of Banjup is zoned, being 'Resource' zone.

During consultation, the affected landowners wrote to the City outlining their objections to the proposed change. Their objections are primarily regarding impacts on market value of their properties, with the perception that market values are lower within Banjup as opposed to Atwell. While noting these objections, the important issue is that both Lots 30 and 31 can only be used in a manner which is consistent with land within the locality of Banjup. Applying urban land values to Lots 30 and 31 is therefore inappropriate, given the underlying zoning and land use permissibility for the lots does not provide for urban development like in Atwell to occur. For this reason objection due to impacts on market value cannot be sustained from a planning viewpoint.

On this basis perceptions of impacts on land values do not provide appropriate counter arguments to why the locality amendment should not proceed. The City needs to ensure a proper and orderly approach is taken to the provision of locality naming, to ensure consistent street addressing and emergency service access is achieved. For this reason it is recommended that Council amend the locality boundary between Atwell and Banjup to follow the centreline of realigned Tapper Road in the vicinity of Lot 30 Tapper Road and Lot 31 Myall Place.

At the same time as this, it is also appropriate that the City request the now unmade portions of the original Tapper Road alignment to be unnamed, given they no longer function to provide public road access. This will ultimately reflect the intention of such land to be dealt with in some other way, whether through rationalisation or for some other access purpose (pedestrian access for example).

Separate to this, once the locality name change occurs, Myall Place will be able to be named for its full extent within the locality of Banjup. This is also recommended as part of this report.

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

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.



**Lifestyle and Aspiration Achievement**

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

**Governance Excellence**

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

**Budget/Financial Implications**

Nil

**Legal Implications**

Nil

**Community Consultation**

Public consultation was undertaken with the two affected landowners. Objections were received, and have been addressed under the 'Report' section above.

**Attachment(s)**

1. Email from the Geographic Names Committee.
2. Plan showing locality and road naming changes
3. Historic suburb boundaries
4. Tapper Road Realignment Plan 21361
5. Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at 9 June 2011 Council Meeting.

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

Nil

**14.5 (OCM 9/6/2011) - CONSENT FOR CROWN EASEMENT OVER PORTION OF RESERVE 47239 LYON ROAD, ATWELL - OWNER: STATE OF WESTERN AUSTRALIA - APPLICANT: WATER CORPORATION (6001137) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council as the holder of the Management Order for Reserve 47239 Lyon Road, Atwell, gives consent for a Crown easement in favour of the Water Corporation, to protect Production Bore Jandakot J240 and enable vehicular access. This consent is to be subject to the easement area not being able to be fenced off, so as to ensure the public and the City maintains unhindered access to the reserve at all times.

**COUNCIL DECISION**

**Background**

Reserve 47239 was created as a condition of subdivision in 2003 and is the subject of a Management Order granted to the City of Cockburn for the purpose of Public Recreation.

**Submission**

The Water Corporation has written to the City of Cockburn requesting that the City as the holder of the Management Order, advise the Minister for Lands that the City of Cockburn consents to the granting of a Crown easement to protect Production Bore Jandakot J240 and enable vehicular access. Project Management Company Benchmark Projects representing Landcorp have provided an interest only Deposited Plan 69997 that identifies the easement area. Landcorp was the developer of the subdivision that established Reserve 47239 and is currently developing the subdivision to the south of the subject land. (Harvest Lakes)

**Report**

Jandakot J240 bore site is a Water Corporation production bore that was previously located on Water Corporation freehold land, at Lot 3 Lyon Road, approximately 300m south of Reserve 47239. The Water Corporation sold this land to Landcorp in 2003. The sale of Lot 3 was

conditional on Landcorp relocating the bore to Reserve 47239, and restoring its functionality. Benchmark Projects as consultants for Landcorp are handling this matter, and are required to finalise all arrangements so as to be able to obtain clearances for the current stage of subdivision.

The City of Cockburn's Parks Department issued an in-principle authority to undertake the works in February 2009. The works have now been largely completed in accordance with the requirements of the City. The interest only Deposited Plan represents one of the final obligations of this project, being to appropriately secure this infrastructure for the Water Corporation by way of a Crown easement. This identifies the extent of the easement area and will be lodged at Landgate with the easement document, which will be prepared by Water Corporation's solicitors.

The terms of the easement will be such that the Water Corporation will have the right to repair and maintain the bore but the area will not be able to be fenced off. As such the public and the City will have unhindered access to all areas of the reserve at all times.

The Department of Regional Development and Lands requires the City's consent to the Crown easement given they are the Management Authority of the reserve. It is recommended that Council grant this consent accordingly.

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

#### **Demographic Planning**

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

#### **Infrastructure Development**

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

#### **Lifestyle and Aspiration Achievement**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

*Land Administration Act 1997*

**Community Consultation**

N/A

**Attachment(s)**

Plan of proposed easement.

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

The Proponent has been advised that this matter is to be considered at the 9 June 2011 Council Meeting.

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

Nil

**14.6 (OCM 9/6/2011) - OUTBUILDING & MODIFICATION TO BUILDING ENVELOPE - LOCATION: LOT 4 TRIANDRA COURT, BANJUP - OWNER / APPLICANT: JOHN WAGHORN (5519745) (A LEFORT) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) approve the application for an outbuilding and building envelope modification based on the revised plans dated 18 May 2011 at Lot 4 Triandra Court Banjup subject to the following conditions:

CONDITIONS

1. The outbuilding shall be used for domestic purposes only, associated with the property, and not for human habitation.
  2. No construction activities associated with the outbuilding causing noise and/or inconvenience to neighbours being carried out before 7:00am or after 7:00pm, Monday to Saturday, and not at all on Sundays or public holidays.
  3. The approved outbuilding shall contain non-reflective materials and colours to the satisfaction of the City. Colour details of the outbuilding are to be supplied with the Building Licence Application.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and

- (3) advise the applicant and those who made a submission of the Council's decision.
- (4) advise the State Administrative Tribunal of Council's decision.

### COUNCIL DECISION

### Background

Zoning	MRS: Rural – Water Protection TPS 3: Resource
Land Use	Outbuilding
Lot Size	2.000500 ha
Use Class	P

### *Previous Proposal*

An application for an outbuilding on the subject site was refused by Council at its ordinary meeting held on 10 March 2011. The applicant subsequently lodged an application for review (appeal) of the decision with the State Administrative Tribunal (SAT) in accordance with Part 14 of the Planning and Development Act. The SAT issued directions for a mediation to occur which was held on-site on 18 May 2011. Following mediation, SAT issued a Directions Notice requiring the proposal be reconsidered by Council based on a revised site plan that seeks to comply with the provisions of TPS 3 and thus address concerns held by the City that led to the refusal decision of the previous proposal.

The outbuilding proposal based on the modified site plan and floor plan is, therefore, referred back to Council for its reconsideration.

### *Site Description*

The subject site is located on the corner of Beenyup Road and Triandra Court within the 'Resource' zone of Banjup and contains an existing single dwelling, a (24m<sup>2</sup>) minor outbuilding and a water tank. The site is generally clear of vegetation except for a number of densely planted mature trees forming a screen around the perimeter of the site. The site contains vehicle access from Triandra Court and a 4700m<sup>2</sup>

building envelope. The existing buildings and structures are contained within the existing building envelope.

### **Submission**

The applicant previously sought approval to construct an outbuilding with a floor area of 336m<sup>2</sup>, a wall height of 4.5m and a ridge height of 5.67m<sup>2</sup> on the most western portion of the site outside the designated building envelope. The revised proposal contains the following modifications:

- Relocation of the outbuilding to provide an increased setback to the western boundary of 66.6m in lieu of the previously proposed 22.73m. The setback to the northern boundary has also been increased from 12m to 13m.
- The existing building envelope shape being modified (with no increase in area) to accommodate the outbuilding.
- The size of the proposed outbuilding being reduced from 336m<sup>2</sup> to 288m<sup>2</sup>.

The proposed wall and ridge heights remain the same as previously proposed. Essentially the outbuilding has been reduced in size and moved closer to the centre of the property and the existing dwelling. The building envelope has also been modified to contain the proposed outbuilding.

The applicant proposes to use the outbuilding to accommodate personal vehicles, a boat, campervan and trailers. The proposed outbuilding is to be constructed of Colourbond “deep ocean” coloured walls (dark blue) with a zincalume roof.

The following justification for the proposal (in summary) was provided by the applicant in support of the original proposal which is still applicable to the revised proposal:

1. Require the additional outbuilding floor area to provide sufficient storage for vehicles, boat, campervan, trailers and undercover recreational area.
2. The north and west sides of the shed will be screened by existing mature trees around the perimeter of the site, many of which are the same height as the proposed shed.
3. There is no indigenous vegetation on the site as it used to be a market garden.
4. There is no net increase in building envelope area therefore no increase in building foot print will result from the proposal.
5. Provision of additional vegetation screening around the boundaries of the outbuilding to make it invisible from the external view of the property.

6. The proposal will not result in any removal of vegetation from the site.
7. The proposed outbuilding location is behind the dwelling.
8. There is precedent set for various other lots in close proximity all exceeding the outbuilding area requirements of Council's policy.

## Report

### Statutory Framework

The subject land is zoned 'Resource' under the City of Cockburn's Town Planning Scheme No. 3 (TPS 3). In accordance with TPS 3, Council has the discretion to approve (with or without conditions) or refuse the application. The proposed development has been assessed against the standards and provisions of:

- TPS No. 3
- Council Policy APD18 'Outbuildings'
- Statement of Planning Policy No 2.1 Peel-Harvey Coastal Plain Catchment Policy
- Statement of Planning Policy No. 2.3 Jandakot Groundwater Protection Policy
- Statement of Planning Policy No. 2.4 Basic Raw Materials.

The proposal constitutes a variation to Council's Outbuilding Policy APD 18 in relation to the maximum floor space of outbuildings and wall height as per the following table:

APD 18 Element	Required	Provided Original Proposal	Provided Revised Proposal	Assessment
Outbuilding Floorspace (combined)	200m <sup>2</sup> maximum	360m <sup>2</sup>	312m <sup>2</sup>	Non-compliant
Outbuilding Wall Height	4m	4.5m	4.5m	Non-compliant
Outbuilding Ridge Height	6m	5.67m	5.67m	Compliant

As seen in the table above, whilst the floor area and wall height proposed both constitute variations to the policy, the ridge height is compliant with Council's policy.

### Neighbour Consultation

The original proposal was advertised to the adjoining landowner to the west of the subject site given the proposed wall height and floor space variations, and the location of the outbuilding outside the existing building envelope. The neighbour objected to the original proposal as

it was outside the existing building envelope and closer to his own dwelling, therefore impacting on his visual amenity.

The revised proposal was then advertised to the same adjoining landowner who maintains an objection to the proposal, despite the outbuilding now being located 66.6m from their boundary (in lieu of the original proposal which proposed a 22.73m setback). The reason for the objection is based on potential noise from the outbuilding and the neighbour recommends that the outbuilding be relocated to the eastern side of the property (in front of the dwelling on Lot 4). Given that the neighbouring dwelling is located approximately 34m from the property boundary, a total separation distance of approximately 100m would exist should the outbuilding be approved in the proposed location.

The adjoining landowner's recommendation that the outbuilding be relocated to the eastern side of the lot (in front of the dwelling) is not supported as it would be inconsistent with the provisions of Council's Outbuilding Policy APD 18 which requires outbuildings to be generally located behind the primary residence in all zones. Furthermore the outbuilding would be more visible from Beenyup Road which would be undesirable.

It is considered that the neighbouring landowner's objection can be adequately addressed based on the proposed separation distance between the adjoining dwelling and proposed outbuilding, the existing vegetation screening which abuts the western boundary of the subject site and the use of the outbuilding for domestic purposes.

### Assessment

#### *Floor Area*

The proposed outbuilding combined with the existing outbuilding on site (24m<sup>2</sup>) results in a variation of 124m<sup>2</sup> to Council's Outbuilding Policy AD 18. Whilst the policy affords staff delegation to approve outbuildings which are within 10% of the policy, this proposal represents a 62% variation. The floor area proposed for the new outbuilding of 288m<sup>2</sup> is considered reasonable for domestic storage needs and is not considered to negatively impact on the amenity of the area.

#### *Wall Height*

The proposed wall height variation is 0.5m and is considered minor and unlikely to impact on the amenity of the area or surrounding properties.



### *Building Envelope*

The subject site contains a building envelope with an area of 4700m<sup>2</sup> which is some 2700m<sup>2</sup> larger than most of the lots within the Resource zone. Approval for an extension to the former building envelope was granted by the City on 22 October 2004. Clause 5.10.2 (b) of TPS 3 states that:

*“where a building envelope is shown on a lot in accordance with clause 5.10.12 (a) and clause 5.10.12(b) every building erected on that lot shall be located within the boundaries of the building envelope”.*

Clause 5.10.2(c) also states that:

*“the local government may on the written request of the landowner relocate or modify the shape or area of a building envelope if in the opinion of the local government the relocation or modification of the building envelope will not have a detrimental impact on the neighbours, the amenity of the area, the use of the land or the environment.”*

The applicant seeks to combine the area required for the outbuilding using other (unused) portions of the building envelope resulting in a modified building envelope. This is considered acceptable given the modification will not result in any increase to the envelope and will not impact on the neighbours amenity of the area, the use of the land or the environment.

### Visual Amenity

The proposed outbuilding if approved is likely to be well screened and out of view from the both Triandra Court, Beenyup Road and adjoining properties due to the existing mature trees located around the perimeter of the site.

### Noise

The proposed outbuilding is to be used for domestic storage so noise from the outbuilding is not anticipated.

### Conclusion

The applicant’s revised proposal has addressed the concerns raised in response to the original application and the reasons for its refusal. The revised proposal is therefore supported for the following reasons:

1. The proposed outbuilding is now located wholly within the modified building envelope and there has been no increase in the size of the building envelope.

2. All buildings on-site will now be contained wholly within the building envelope rather than distributed across the site.
3. The floor area of the proposed outbuilding has been reduced and is now considered more acceptable for domestic use.
4. The variation to the wall height contained in Council's Outbuilding Policy is considered minor and is unlikely to impact negatively on the visual amenity of the surrounding area due to the existing vegetation screening located around the perimeter of the site.

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

#### **Demographic Planning**

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

#### **Natural Environmental Management**

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

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

N/A

#### **Legal Implications**

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

#### **Community Consultation**

Nearby neighbours were consulted about the proposal.

**Attachment(s)**

1. Location Plan
2. Site Plan
3. Floor Plan & Elevations

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 June 2011 Council Meeting.

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

Nil.

**14.7 (OCM 9/6/2011) - PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING 'TAVERN' - LOCATION: LOT 22 (NO. 6) COCKBURN ROAD, HAMILTON HILL - OWNER: ALE NOMINEES PTY LTD - APPLICANT: BURGESS DESIGN GROUP (6003372) (M SCARFONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the application for alterations and additions to the existing 'Tavern' at Lot 22 (No. 6) Cockburn Road, Hamilton Hill, subject to the following conditions and footnotes:

**CONDITIONS**

1. All noise attenuation measures, identified by the Noise Impact Assessment prepared by Lloyd George Acoustics (March 2011), are to be implemented prior to occupancy of the development or as otherwise required by the City and the requirements of the plan are to be observed at all times.
2. The preparation and submission of a detailed landscaping plan, to the satisfaction of the City prior to the issue of a building licence.
3. Landscaping is to be installed, reticulated and / or irrigated in accordance with the approved plan and maintained thereafter to the satisfaction of the City. The landscaping shall be implemented during the first available planting season post completion of development. Any species

which fail to establish within a period of 12 months from planting shall be replaced to the satisfaction of the City.

4. Where a driveway and/or parking bay abuts a public street, associated walls, fences and / or adjacent landscaping areas are to be truncated within 1.5 metres or limited in height to 0.75 metres.
5. A Waste Management Strategy shall be submitted to and approved in writing by the City, prior to the issue of a Building Licence. This Strategy should have regard to Council Policy SPD9 'Waste Minimisation, Storage and Collection'. The recommendations of this strategy shall be implemented to the ongoing satisfaction of the Manager Statutory Planning.
6. All waste and recycling materials must be contained within bins. These must be stored within the buildings or within an external enclosure located and constructed to the satisfaction of the City's Manager Environmental Health Services.
7. Prior to the issue of a Building Licence, details of the materials proposed to be used in the development, including their colour and finish, shall be submitted to the City for the approval of the Manager Statutory Planning. The development shall thereafter be constructed strictly in accordance with the approved materials schedule.
8. Prior to the occupation of the addition (the subject of this approval), the 50 parking bay/s, driveway/s and points of ingress and egress shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of the City.
9. The nose in bays located within the Cockburn Road reservation, notated in red on the approved plans, being replaced with parallel parking bays in the event road widening in this location occurs.
10. Prior to the issue of a Building Licence, details outlining the provision of bicycle parking for visitors to the development shall be submitted to the City for the approval of the Manager Statutory Planning. The bicycle parking facilities thereby approved shall be made available for use prior to the development becoming operational, and they shall be thereafter retained in

perpetuity.

11. All service areas and related hardware, including antennae, satellite dishes, air-conditioning units and bins, being suitably located from public view and/or screened, the details of which are to be provided for the approval of the Manager Statutory Planning prior to the issue of a Building Licence.
12. No building (or related) activities associated with this approval causing noise and/or inconvenience to neighbours being carried out after 7.00 p.m. or before 7.00 a.m., Monday to Saturday, and not at all on Sunday or public holidays.
13. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.
14. All stormwater being contained and disposed of on-site.

#### FOOTNOTES

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council, or with any requirements of the City of Cockburn Town Planning Scheme No. 3. Prior to the commencement of any works associated with the development, a building license may be required.
2. With respect to Condition 2, the landscaping plan shall have regard to the City's requirements for landscaping for commercial development as indicated by 5.9.2 of Town Planning Scheme No.3. The applicant is advised to liaise with the City's Parks and Environment Services prior to lodgement of the landscaping plan to ensure the provision of appropriate species for the location.
3. With regard to Condition 6, the external enclosure must be and of an adequate size to contain all waste bins, at least 1.8 m high, fitted with a gate and graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. The minimum provisions for internal bin storage is a concrete wash-down pad of at least 1m<sup>2</sup> graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. This can be centrally

- located within the development.
4. With reference to Condition 10, the 50 parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the relevant Australian Standards for off street car parking unless otherwise specified agreed by the City.
  5. The development is to comply with the noise pollution provisions of the *Environmental Protection Act 1986*, and more particularly with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
  6. With regard to Condition 16, all stormwater drainage shall be designed in accordance with the latest release of the document entitled "Australian Rainfall and Runoff" produced by the Institution of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. See City's specification, enclosed. This is to be provided at the time of applying for a building licence.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
  - (3) advise the applicant and those who made a submission of the Council's decision.

## COUNCIL DECISION

### Background

Prior to lodgement of the current application, the applicant met with the City's officers on several occasions to discuss redevelopment options for Lot 22 (No. 6) Cockburn Road, Hamilton Hill (herein referred to as the subject site). The subject site incorporates three uses being a drive through bottle shop on the northern portion, a tavern, 'Ed'z Sports Bar', in the middle portion and a restaurant, the 'Iron Pot', on the southern portion.

During the pre-lodgement meetings, the operator's desire to modify the current establishment to facilitate a move away from a traditional workers tavern and rebrand the facility as a family and food oriented venue was expressed. The operator has indicated an intention to replicate the atmosphere of established premises such as Little Creatures, the Seaview and the Brisbane Hotel, and to cater for the over 25's market.

The subject site is bounded by the former Newmarket hotel to the north, two multiple dwelling developments to the northeast, grouped dwellings to the east and commercial outlets to the south incorporating a range of retail premises. Land on the west side of Cockburn Road, is located within the City of Fremantle and is understood to be a development zone. The subject site and surrounding properties are zoned Local Centre, Mixed Business and Residential R60.

The diversity of land uses in the area is reflected in the zoning and is generally consistent with the future vision of the locality.

Zoning:	MRS:	Urban
	TPS No. 3	Local Centre
Proposed Land use:	Tavern	
Lot size:	1210sqm	
Use class:	A	

### Submission

The proposed development incorporates: a public bar, a 'lounge bar (referred to in the attached report as (Tavern Seating Area) containing 154 seats, a Restaurant containing 58 seats, a drive through bottle shop (98 m<sup>2</sup>), various back of house facilities including kitchen and cool room, male, female and universal access amenities and 50 on-site car parking bays. While the public bar will be a standing area, seating will be provided in the lounge bar, and restaurant and food will be served in each of these locations.

As indicated above 50 on-site car bays have been provided. In preparing the current submission, the proponents have sought to ensure the proposed additions do not exacerbate the current approved parking shortfall. The approach undertaken by the proponent was agreed upon with Council staff at the various pre-lodgement meetings. The provision of car parking will be discussed in further detail in the relevant section below.

The existing building on the subject site is a single storey brick and metal structure, incorporating the three land uses described above. The building is setback approximately 15 metres from Cockburn Road.

Extending from the entry of Ed'z Sports Bar is a courtyard, containing several chairs, tables and café umbrellas, utilised as a spill out/alfresco area. This courtyard was approved by the City in September 2006.

The addition(s) are proposed to be constructed of materials complementing the existing structure. It will project beyond the existing building into the area currently occupied by the courtyard and is designed to ensure car parking bays below are retained. The addition utilises a flat roof to ensure the height is similar to that of the existing building, reducing the impact of the building on adjoining property owners to the east, particularly in terms of bulk. Windows of the proposed addition are located on the north, west and south elevations, allowing views to be captured while ensuring the privacy of nearby landowners is not impacted. A copy of the proposed plans is included in Attachment 2.

### **Report**

The main issue for consideration in determining this proposal relates to the proposed built form alternations and change in operating characteristics of the existing approved 'Tavern'. In determining the application it is also important to take into consideration the future vision for the location as promoted in various planning documents including proposed Scheme Amendment 82 (Newmarket Precinct) and Local Planning Policy APD 61 Newmarket Precinct Design Guidelines. The proposal's compliance with the Town Planning Scheme, the proposed Scheme Amendment and the planning policy is outlined in the following sections.

#### Town Planning Scheme No. 3

Within the 'Local Centre' zone, the proposed 'Tavern' use, inclusive of the restaurant and bottle shop component, is defined as an 'A' use under the provisions of the TPS No.3. An 'A' use, means 'the use is not permitted unless the local government has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 9.4'. While the use of the subject site as a 'Tavern' is already approved, given the use class classification and the proposed alterations and additions, it was considered appropriate to advertise the proposal to nearby landowners in accordance with the scheme provisions. The results of the consultation are discussed in detail in the relevant section below.

#### Proposed Scheme Amendment No. 82 (Newmarket Precinct)

In March 2011, Council adopted proposed Scheme Amendment No. 82 (Newmarket Precinct) for final approval, and a copy of Council's resolution and associated documentation has been forwarded to the



Western Australian Planning Commission for final approval by the Hon. Minister for Planning. The scheme amendment is integral to the strategic planning for the location which aims to transform Cockburn Coast into a highly urbanised, vibrant coastal village, encompassing a wide range of land uses.

The proposed Scheme Amendment identifies the subject site as being within the proposed 'Special Use No. 24' (Mixed use) zone and outlines various permissible uses within this zone. Within the proposed 'Special Use No. 24' zone a 'Tavern' is considered a 'D' use, meaning it may be approved following the exercise of discretion by the local government. As indicated above, the existing tavern has development approval, whilst the additions are considered consistent with the proposed Scheme provisions and are therefore supported.

### General Development Requirements

Part 5 of the TPS No. 3 outlines the requirements for development across the City. Clause 5.9 deals specifically with the requirements for commercial and industrial uses. The development requirements for these uses are split into five main components, these being, building setbacks, amenity, convenience and functionality and car parking.

#### Building setbacks

Clause 5.9.1(b) states, 'a building shall be setback from boundaries or erected on boundaries so that the impact on the use and amenity of adjoining buildings is minimised and the scale and bulk of the buildings is compatible with the streetscape'.

The proposed building is considered to be of an appropriate scale for the 'Local Centre' zone. The proposed first floor extension utilises a flat roof design ensuring the overall height of the structure remains similar to the existing.

With regard to front setbacks, the proposal presents a minimum front setback to the proposed addition to the western boundary (Cockburn Road) of 7.0 metres. The majority of the setback area will be utilised for vehicle parking and manoeuvring. The setbacks of the remainder of the building are not the subject of the current proposal.

#### Landscaping

The scheme requires that a minimum of 10% of the lot area be landscaped. In this instance, it is noted the subject site is already developed and as such the status quo will be maintained with respect to the provision of onsite landscaping. A condition requiring a landscaping plan, depicting the upgrade of existing landscaping has

been included as part of the officer's recommendation (see condition 2).

### Amenity

Essentially Clause 5.9.3 of the TPS No. 3 requires additions to existing buildings to be designed in a fashion which ensures they complement the streetscape and do not negatively impact on surrounding properties. As indicated above, the proposed addition extends toward Cockburn Road, with the height similar to the existing structure. All other setbacks remain the same. The proposed design ensures adjoining landowners are not impacted on in terms of additional bulk.

While Clause 5.9.3 is principally concerned with built form, in considering amenity impacts it is also considered appropriate to discuss potential impacts of the proposal on adjoining landowners with respect to noise and other off site impacts.

During pre-lodgement discussions, the applicant was asked to provide a Noise Impact Assessment (NIA) and Management Plan, as a part of the application, to ensure these issues were dealt with comprehensively as part of the proposal. These reports are included in Attachment 2.

The NIA confirms the design of the proposed addition, along with the existing built form, will provide a buffer to the residential development behind. The recommended roof insulation to be incorporated into the design of the addition will provide a further noise attenuation. In addition, to providing recommendations with respect to design and construction materials, the NIA states only background music will be played within the addition at a level appropriate to allow conversation. It confirms live music will not be played. The City's Environmental Health service have reviewed the proposed Noise Impact Assessment and considered the measures outlined within to be acceptable. Condition 1 has been applied to ensure the measures outlined within the NIA are implemented to the City's satisfaction.

The Management Plan deals with issues such as responsible service of alcohol, operating hours, dress code, noise and sound attenuation, rubbish pick up and measures to be implemented at the close of business. The measures outlined in the document have been reviewed by the City's officers and are considered likely to ensure the 'tavern' continues to operate without undue impact on the surrounding landowners.

The Management Plan reflects the desire of the operator to move toward a family and food oriented establishment. The operator will be targeting the over 25 market, with a requirement for patrons to be

dressed in smart casual attire. In addition, music within the additions will be limited to background levels, and patrons displaying rowdy or excessively noisy behaviour face a warning and possible ejection from the building.

With respect to litter, the Management Plan indicates staff shall undertake a general clean up of the location after close, picking up any empty bottles, or cans. Rubbish collection will be carried out by a contractor after 7 am to ensure the impact on surrounding neighbours is minimised.

The measures outlined in both the NIA and Management Plan is considered acceptable and will assist the Tavern to continue to operate in this location with minimal impact on surrounding landowners.

### Convenience and Functionality

Clause 5.9.4 is particularly concerned about ensuring development is designed so that it is convenient for those who use it. Located on Cockburn Road, the existing Tavern benefits from high levels of exposure and is serviced by a road which caters for large volumes of traffic.

The subject site is also accessible via various public transport (bus) services running through the area, linking it to Fremantle and surrounding suburbs. Further the development is within walking distance for residents to the north east and south of the development.

In addition to being accessible from the surrounding suburbs, the proposed site plan allows for safe and convenient vehicle and pedestrian movements across the site. A waste management plan will be provided prior to the issue of a building licence (see condition 6) ensuring that storage and waste disposal are dealt with appropriately and convenient for all users. The proposed development is considered to be convenient and functional for all users and as such Clause 5.9.4 is considered to be satisfied.

### Vehicle Parking

During the pre-lodgement meetings the applicant was informed car parking is likely to be the greatest inhibitor to development on the subject site, particularly given there is no room to expand car parking numbers onsite. In preparing the submission the applicant has therefore been careful to ensure the proposed additions do not result in a net increase in parking requirement under the provisions of TPS No. 3.

Based on the current land uses there is an existing operating shortfall of 51 car parking bays (see page number 3 of Attachment 2 for calculation).

In order to increase the floor area of the existing tavern operation, while at the same time ensuring parking demand is not increased, the applicant has decreased the intensity of use on site. In order to decrease the use intensity, the applicant has reduced the amount of traditional standing drinking area, replacing this with greater numbers of seats within the establishment. This is consistent with the operators' intention to transform the existing 'Tavern' from a workers style establishment, to one which is more food and family focused.

In order to assess the parking requirements of the proposed 'Tavern' the provisions of Table 3 of TPS No. 3 have been taken into consideration. The seated areas were assessed against the restaurant provisions of Table 3 (1 car bay per four seats) and the standing area calculated at 1 bay for every 2 m<sup>2</sup> of drinking area. This approach is consistent with the that taken in assessing the 'Tavern' at the corner of Hammond Road and Brushfoot Avenue in Hammond Park, a development approved by Council at its meeting of 13 November 2008 and the 'Tavern' on the corner of Beeliar Drive and Hammond Road, approved by Council in 2010.

The table below summarises the required parking and takes into account the exiting shortfall.

Car Parking requirement as per Table 3 of TPS No. 3	Car bays required
Bottle shop 98m <sup>2</sup> @ 1 bay per 12m <sup>2</sup>	8.16
Sitting area 212 seats @ 1bay per 4 seats	54
Standing area 65.4m <sup>2</sup> @ 1 bay per 2	33.7
<b>Total Bays required 96 (rounded to nearest whole number)</b>	
Minus parking on site	45
Minus approved parking shortfall	51
<b>Resultant surplus/shortfall</b>	<b>0</b>

The alterations taking place within the existing building footprint are permissible under the provisions of TPS No. 3 and when combined with the proposed addition do not exacerbate the existing car parking shortfall on site.

#### Local Planning Policy – APD 61 Newmarket Design Guidelines

The Local Planning Policy - APD 61 Newmarket Design Guidelines (APD 61) was adopted by Council on 12 August 2010. APD 61 aims to ensure that new development within the Newmarket Precinct has regard to the Cockburn Coast District Structure Plan and provides

detailed guidance with respect to issues such as land use, building heights and setbacks, robust building design, vehicle access and car parking.

While APD 61 promotes an engaging, urban form of development, with nil street setbacks and parking at the rear of the property, this Policy more relevantly applies to new development and large scale redevelopment. Some discretion is required where relatively modest additions to an existing building are proposed as is the case with the current application.

The proposed addition is considered appropriate in scale and height in the subject location, utilising a mix of materials and therefore adding interest to the current built form. Entrance points are clearly defined whilst the addition will provide for a higher surveillance of the street frontage and public domain. These features are consistent with the provisions of APD 61 and as such the additions are supported.

### Consultation

As indicated above, a 'Tavern' is an 'A' use in the 'Local Centre' zone and as such has been advertised to approximately 40 landowners adjacent to the subject site for comment. A total of five submissions have been received, consisting on four objections and one non-objection. A schedule of submissions is included as a part of this report (see Attachment 3).

The main concerns raised with respect to the proposal are as follows:

1. incompatibility of the use with the residential/family nature of the locality;
2. visual privacy concerns;
3. noise generated by the use and traffic movements;
4. anti-social behaviour, such as littering;
5. the loss of views; and
6. depreciation in property values.

The use of the land has been approved by the City previously and is not the subject of the current application, which proposes various additions and alterations to the existing 'Tavern'. The use is permissible under the current and proposed scheme provisions and the future vision for the area promotes a range of land uses, in close proximity.

The design of the proposal is considered acceptable, having regard to the general development provisions of TPS No.3 and the provisions of APD61 and assists in ensuring residential amenity is not impacted on via building bulk, loss of visual privacy or additional noise. Noise and

anti social behaviour have also been addressed to the City's satisfaction via the NIA and management statement.

While the loss of views is not necessarily a planning consideration, the height of the proposed addition is in keeping with the existing building and as such the potential for loss of views is considered negligible - Point 6 is not a valid planning consideration and as such is not required to be addressed.

### Conclusion

It is considered that the proposed alterations and additions to the existing 'Tavern' are acceptable in land use terms, having regard to the provisions of TPS No.3 and proposed Scheme Amendment No.82. The additions are also generally compliant with the general development provisions of TPS No.3 and the provisions of APD61 – Newmarket Design Guidelines. The design of the additions, combined with the NIA and Management plan will ensure the existing 'Tavern' continues to operate without impact on surrounding landowners.

It is considered the development of this site, in the manner outlined in the applicant's submission would be a welcome addition to the range of eating/drinking establishments that exist across the City. It is recommended therefore that the application be approved subject to the conditions outlined.

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

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

#### **Lifestyle and Aspiration Achievement**

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

#### **Employment and Economic Development**

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

Policy APD61 'Newmarket Design Guidelines' refers.

**Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect of the Council's determination, there may be a cost to be borne by the City (out of the existing operational budget).

**Legal Implications**

Town Planning Scheme No. 3

**Community Consultation**

Refer to report.

**Attachment(s)**

1. Location plan
2. Development application
3. Schedule of Submissions

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

The applicant and those who made a submission have been advised that the application is to be considered at the 9 June 2011 Ordinary Council Meeting.

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

Nil.

**15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

**15.1 (OCM 9/6/2011) - LIST OF CREDITORS PAID - APRIL 2011 (FS/L/001) (N MURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for April 2011, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

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

**Submission**

N/A

**Report**

The list of accounts for February 2011 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**Strategic Plan/Policy Implications**

**Governance Excellence**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – April 2011.

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

N/A

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

Nil.



**15.2 (OCM 9/6/2011) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - APRIL 2011 (FS/S/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated reports for April 2011, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

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

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

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents be presented to Council within 2 months after the end of the month to which the statement relates.

The regulations require the information reported in the statement to be shown either by nature and type, statutory program or business unit. The City has chosen to report the information according to its organisational business structure, as well as by nature and type.

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2010/11 financial year.

## **Submission**

N/A

## **Report**

The City had a closing actual position of \$32.4M at month's end, \$18.2M higher than the forecast YTD budget of \$14.2M. This is primarily due to a delay in processing budgeted annual transfers from the Municipal account into the cash backed reserve accounts (totalling \$13M). These will be processed in the month of May.

The remainder of the variance is attributed to out-performance of the budget in several key revenue areas and a general underspending of operating budgets.

The full year revised budget is now showing a surplus position of \$1.1M, versus the balanced budget position adopted last June (nil surplus or deficit). Various budget adjustments made throughout the year have contributed to this as outlined in Note 3 of the financial report, including the impact of the mid-year budget review adopted in February.

Also impacting positively on the surplus, are developer contribution scheme (DCA) funds totalling \$352k identified during the month for repayment to the Municipal account. These monies represent pre-funded commitments in prior financial years by the Municipal account.

In view of the current YTD closing actual position, the surplus is expected to come in above the budgeted position to some extent. Any surplus generated will be transferred into Council's cash backed Community Infrastructure Reserve in accordance with the Budget Management Policy SC34.

## Operating Revenue

The overall operating revenue budget is \$2.4M ahead of the YTD budget. Interest earnings are ahead of the YTD budget by \$0.8M. Earnings on Reserve funds in particular compromise this variance at \$0.51M over budget, although this is quarantined and hence does not impact the overall end of year budget position. This out-performance continues to be driven by strong rates of return on TD investments, and the seasonally high principal investment balance of \$80M.

Property rating income is \$0.75M ahead of the YTD budget. This has predominantly resulted from growth in the property rate base over and above conservative estimates.

Revenue for the South Lake Leisure Centre is \$0.30M (15%) ahead of YTD budget and has already reached the full year target. This may in part be due to the record hot summer experienced in Perth this year. Both the Aquatic and Fitness segments of the centre have done particularly well this year.

Human Services grant funding is currently ahead of YTD budget by \$0.34M. However, these funds are restricted in purpose and will therefore not impact the year end position.

As a result of the mid-year budget review, income from the Waste Disposal operation is more in tune with the revised YTD budget. However, revenue from the sale of salvaged materials is exceeding budget by \$0.15M (47%).

### Operating Expenditure

Operating expenditure is running \$2.7M below the YTD budget (versus \$3.1M last month). It should be noted here that material commitments are accrued into the monthly accounts in order to reflect a more realistic month end position (eg. security patrol costs, RRRC gate fees, landfill levy etc.).

On the savings side, employee costs are contributing \$1.0M, materials and contracts \$1.8M, and other expenses \$0.5M (comprising landfill levies and grants and donations). These are offset somewhat by increased utility costs \$0.3M (power mainly) and insurance costs \$0.2M (prior year workers compensation premium calls).

Most business units are running within their budget allocations, Infrastructure Services being the exception. This is due to increased power costs (\$0.15M) and general repairs/maintenance (\$0.3M) within facilities management; and excess plant running costs of \$0.35M.

The Parks and Environment Unit is showing an underspend of \$0.53M across their operational budgets, although this is not expected to materially contribute to a surplus by year's end.

Liability for the State Landfill Levy was estimated to be \$0.23M under the YTD budget and general operating costs at the waste recovery park were down \$0.29M. The quantum of landfill levy is governed by tonnage to landfill, so is offset against the fees and charges generated.

Further details of the material variances within each Business Unit are shown in the Variance Analysis section of the financial report.

### Capital Program

The City's capital budget is showing an overall underspend of \$10.1M against a YTD budget of \$25.9M. Public infrastructure projects are the biggest contributor to the underspend variance at \$6.4M, plant acquisition and replacement contributes \$1.8M, and land & buildings adds \$1.7M.

A point of note is the fact \$12.4M of the total \$40.4M capital budget is cash flowed to occur in June. This is unlikely to eventuate and will contribute to a large carried forwards number into next year's budget. Hammond Rd 2<sup>nd</sup> carriageway construction – Russell to Bartram (\$2.0M), Cell 7 construction at Henderson waste park (\$1.95M), and the Grandpre Crescent subdivision (\$1.4M) are some of the more significant projects likely to be substantially carried forward into the new financial year.

Specific details on under/over spent projects as at 30 April can be found in the CW Variances section of the monthly report.

### Cash & Investments

Council's cash and current/non-current investment holdings reduced to \$79.6M (from \$84.1M in the previous month). However, this is well above the YTD budget forecast of \$63.7M due to a number of contributing factors, not least being the significant underspend within the capital program.

Of this total cash and investment holding, \$40.5M represents the City's cash reserves, whilst another \$4.8M is held for other restricted purposes such as bonds and capital contributions. The balance of \$34.3M represents the cash component of the working capital required to fund the City's operations and the municipal funded portion of the capital program over the remainder of the financial year.

The City's investment portfolio made an annualised return of 6.00% for the month, down from 6.27% in the previous month due to one less day in the month. Generally, the average rate of return has increased steadily throughout the year as lower yielding investments mature and are then reinvested at a higher yielding rate. Investment decisions made during the month continued to follow the strategy of using short to medium dated TD's with APRA regulated Australian banks.

### Description of Graphs and Charts

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a very quick view of how the different units are tracking and the comparative size of their budgets.

The Capital Expenditure graph tracks the YTD capital spend against the budget. It also includes an additional trend line for the total of YTD actual expenditure and committed orders. This gives a better indication of how the capital budget is being exhausted, rather than just purely actual cost alone.

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year.

Council's overall cash and investments position is provided in a line graph with a comparison against the YTD budget and the previous year's position at the same time.

Pie charts included show the break-up of actual operating income and expenditure by nature and type and the make-up of Council's current assets and liabilities (comprising the net current position).

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

Material variances identified of a permanent nature (i.e. not due to timing issues) may impact on Council's final budget position, depending upon their nature.

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Attachment(s)**

Statement of Financial Activity and associated reports – April 2011.

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

N/A

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

Nil.

**15.3 (OCM 9/6/2011) - ADOPTION OF MUNICIPAL BUDGET 2011/12 AND ANNUAL BUSINESS PLAN 2010/11 (IM/B/006; IM/B/007) (S DOWNING/N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council adopt:

- (1) the Municipal Budget for 2011/12 and associated Schedules, as attached to the Agenda; and
- (2) the Annual Business Plan for 2011/12, as attached to the Agenda.

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

**COUNCIL DECISION**

**Background**

Council is required to adopt an Annual Budget by 31 August each year. To this end the City adopts its budget in June of each year.

In addition, the City also presents the Annual Business Plan for 2011/12 which is a detailed plan for the new financial year. The purpose of adopting an Annual Business Plan allows for each financial year to be based on the broader Plan for the District. This is done so as to allow ratepayers to have certainty that the Plan for the District is the guiding document governing the financial planning for the City.

**Submission**

N/A

## Report

The Municipal Budget, in the prescribed statutory format, is attached to the Agenda.

### Annual Business Plan 2011/12

The Annual Business Plan, detailing the business activities of the City's Service Units for 2011/12 is attached to the Agenda.

The Plan for the District 2010/20 sets out the future for the district over the next ten years. The Business Plan concentrates on the activities over the next twelve months, ie. the 2011/12 financial year.

The Business Plan (the Plan) sets out a summary of the activities to be undertaken by Council during the year. The Plan sets out by Division and Service Unit, projects to be undertaken, key performance measures and budgets for income and expenditure. The Annual Report for 2010/11 will report on the actual achievements for the year compared to these project lists, measures and budgets.

### Municipal Budget 2011/12

The Municipal Budget for the financial year 2011/12 is proposed to be adopted on 9 June 2011. In addition, to the Statutory Budget as required by the Local Government Act 1995, there are schedules covering the capital works and operating initiatives together with carried forward capital works from 2010/11 and the Schedule of Fees and Charges for the new financial year.

The Proposed Budget for 2011/12 is based on the following set of parameters:

#### *Rates:*

The Budget is prefaced on an overall increase of 5.5% for the average residential, commercial and industrial improved property. The situation is different in 2011/12 when compared to 2010/11 due to the general triennial gross rental value (GRV) revaluation that will come into effect on 1 July 2011. The average increase for residential improved properties is 39% (for Commercial and Improved Properties the increase in GRV is 15%). To negate the impact of the substantial revaluation, the rate in the dollar will be lowered by the same amount, that is 39% (15% for commercial/industrial) and a 5.5% increase applied to the adjusted lower rate in the dollar. The issue like in all revaluation years (every three years), is the increase in GRV of 39% applies to the average house (calculated by dividing the total gross rental values for all houses by the number of all houses) for the whole

of the municipality and not to any one property. This means there will be variations to the average GRV. So where a property has had an increase in GRV greater than the average the increase in their 2011/12 rates will be more than 5.5%. Where the increase in GRV is less than the average the increase in their rates will be less than 5.5%.

Vacant land (residential) will receive an overall reduction in their rates compared with the prior year. This is due to the Valuer General amending the valuation methodology effective for the new financial year. The method was changed from a GRV derived using 5% of the market value to one using a factor of 3%, effectively a 40% reduction. At the same time, land values have increased. Overall the average vacant residential block will receive lower rates of around an average of 15%. As the Valuer General did not amend the methodology for valuing commercial or industrial properties, the average increase will be around the 5% unless its revaluation was more or less than the average increase.

<b>Avg House</b>	<b>2010/11</b>	<b>2011/12</b>	
	<b>\$</b>	<b>\$</b>	<b>% Increase</b>
Rates	729	769	5.5
Waste	345	365	5.8
Co-Safe	45	50	11.1
<b>Council Charges</b>	<b>1,119</b>	<b>1,184</b>	<b>5.8</b>
State Govt ESL	172	189	9.4
Total	1,291	1,373	6.3
			\$1.57 per wk
<b>Min Payment</b>			
Rates	575	600	4.3
Waste	345	365	5.8
Co-Safe	45	50	11.1
<b>Council Charges</b>	<b>965</b>	<b>1,015</b>	<b>5.2</b>
State Govt ESL	136	147	8.2
Total	1,101	1,162	5.6

It is expected that other Councils in the South West Metro area will increase their rates by 4.5% to 12%. The latter is Rockingham Council, like Cockburn another growth Council.

Unimproved value properties are revalued every year by the Valuer General. The increase will be adjusted as per the Council action to standardise UV rates as per the wider region including the Town of Kwinana and the City of Armadale.

The Council expects growth of the municipality to be in the order of 2% in new lots coming onto the market as well as new buildings being



constructed. Growth will be dependent upon the overall national economy especially the impact of any interest rate increase.

*Underground power:*

Underground power will be introduced in Coolbellup in 2011/12. The Charge will be levied by way of a two-fold levy, firstly a Specified Area Charge rate in the dollar with a second charge being a flat connection fee. Pensioners and seniors will get a 50%/25% discount respectively for both the specified area rate and the connection fee. Those properties already with a street connection (green dome) will not receive this particular charge but will still pay a specified area rate. Properties adjacent to HV poles/wire will get a 50% discount except for those high voltage pylons along Cordelia Avenue, Coolbellup.

The charge will be levied over five years on all properties in the designated areas with an interest component to allow for a time basis payment. A discount of 10% will be allowed if any ratepayer wishes to pay the full charge up front. The City will contribute 20% to the overall cost of the underground power program.

*Levies & Charges:*

Waste Management Levy

The levy will increase from \$345 to \$365 per rates assessment. The Council will continue to offer weekly waste and recycling collection, 2 junk and 2 green waste collections each year plus 6 free tip passes to Council's Henderson Waste Recovery Park.

Community Surveillance Levy (Co-Safe)

The levy will increase from \$45 to 50, the first increase in three years. Revenue raised by this levy will fund the Co-Safe service and initiate the first trial of CCTV in the City (along the Cockburn Coast centred on Coogee Beach).

Pool Inspection Levy

The levy increases from \$20.50 to \$24.50 per property with a swimming pool. This increase will fund the employment of an additional inspector, bringing the total to two inspectors employed by the City. This is in order to ensure that Council will be able to inspect every swimming pool in the municipality once every four years to comply with the relevant statutory requirement.

Port Coogee Specified Area Rate

This rate will increase from 1 cent in the dollar of GRV value to 1.5 cents. These monies are being quarantined so as to provide funding to ensure that the parks and public areas (including custom street lighting) are maintained in accordance with the higher standards

agreed to between the Council and the Developer. The additional costs being borne by the developer initially and the landowners ultimately.

The City will commence taking over public open space in the Port Coogee area in 2011/12 which will trigger the City drawing on funds in the Reserve to supplement the additional maintenance work noted above.

The increase in the rate in the dollar will not see additional funds raised in 2011/12 due to the drop in value for vacant residential properties as per the changes introduced by the Valuer General.

#### Emergency Services Levy

Although not used by the Council, the levy is collected by the Council under direct instruction from the State Government and passed onto the Fire and Emergency Services Authority. The increase for the City of Cockburn ratepayers is 9.2% or \$16 after being adjusted for the revaluation effect.

#### *Fees & Charges:*

#### Henderson Waste Recovery Park

The base charge will increase from \$110 to \$115 per tonne inclusive of the landfill levy and gst. The increase is aimed to cover rising costs of labour and materials including fuel.

#### South Lake Leisure Centre (SLLC)

The average increase of the SLLC fees across the board is approximately 6%. This is to cover the cost increases of utilities, staff costs, maintenance on an ageing facility and replenishment of worn equipment.

#### Planning Fees, Building Fees, Health Fees/Licences

This area of fee income is set by statute via the State Government. With the State Government not allowing for an increase in the fees chargeable by local governments (other than for the State Government's new planning initiative Development Assessment Panels and Detailed Area Plans), the Council will have to increasingly subsidise the cost of this service against the general ratepayers of the municipality. The overall subsidy of providing these services is \$2m to the ratepayers.

#### Development Assessment Panel's (DAPs)

A development application in respect of which DAP regulations apply attracts a new and additional fee (additional to the Local Government fee). DAP fees range from \$3,376 to \$6,320 dependent on the cost of development. This fee is received by the local authority and forwarded to the DAP Secretariat. The DAP fee contributes to the delivery of

DAPs under the Approvals and Related Reforms (No.4) (Planning) Act 2010, including the support provided to DAPs by the DAP Secretariat.

#### Detailed Area Plans:

Statutory Planning recommends an increase in the fees for Detailed Area Plans and amendments thereto. The current fee for the assessment and approval of a Detailed Area Plan is \$1,000 (\$500 for an amendment). The recommended increase is \$1,500 as part of the Budget for 2012 (\$750 for an amendment).

#### Rates Administration Fee/Interest and Penalty Interest

The Rates Instalment Fee is reducing from \$5 to \$4 per instalment. This reduction is being made in conjunction with the introduction of a 0.55% transaction fee for the cost recovery of credit card merchant fees. This initiative will provide lower costs to the majority of ratepayers.

#### Merchant Credit/Debit Card Surcharge Fee

This fee covers the significant cost to Council of accepting credit card payments and is consistent with accepted business practice including the fee regimes of Synergy, Water Corp, Alinta, Telstra and City of Melville. The Council's fee of 0.55% is lower than that charged by all of these other organisations.

The fee is totally voluntary in nature, and the Council's customers will have the choice of other payment options other than credit card (eg. BPay, Aust Post). This fee now also allows the Council to accept payments from American Express and Diners Club cards.

Credit card payment will also now become an option for the payment of most debts to Council including infringements and sundry debtors.

#### Naval Base Leaseholder Fees

Council is set to reduce the leaseholder fee increase proposed in the initial proposal presented to Council. The overall increase for all fees represented by the leaseholder fee will increase by 7%, a reduction from the proposed 35%. The rent fee will increase over five years rather than three years. The Removal fee for removal of a leaseholders dwelling and site remediation will reduce from \$600 to \$480. The funds raised from this will still be quarantined and will be repaid to the leaseholder when the leaseholder's structure is removed and the site remediated. The fees for waste, co-safe and ESL will rise as per the rise for general increase across the City.

Leaseholders will be offered the opportunity to pay their lease fee by instalments similar to ratepayers. An administration fee and interest will apply also similar to ratepayers.

General Fees and Charges

All other fees are set to increase by approximately three percent or CPI.

*Capital Works:*

A budget for Capital Expenditure for 2011/12 totalling \$52.2m has been provided.

The major projects are:

1. Coogee Beach Surf Club - \$3.6m of (\$6.5m)
2. GP Super Clinic, Library and IHF - \$15m of (\$40m)
3. Emergency Services HQ - \$2.5m
4. Botany Park - \$0.7m
5. Operations Depot Upgrade - \$1.8m of (\$7.92m)
6. General refurbishment - \$0.5m
7. Beeliar Drive - \$2.17m
8. Underground Power in Coolbellup - \$1.68 of (\$2.88m)
9. Roads - \$7.15m
10. Footpaths/cycle ways - \$0.89m
11. Waste Disposal - \$3.43m
12. Parks - \$3.5m
13. Plant and equipment \$3.85m (new and replacement)

Capital Income and GrantsLand Sales

Grandpre Crescent Development	\$3.5m
Other Miscellaneous Land Sales	\$2.2m

Grants

Federal Government – Emergency Services HQ	\$1.5m
Various Road Grants –	\$1.56m
MRWA – Beeliar Drive	\$0.50m
Other Grants	\$2.1m

*Carried Forward Expenditure*

A total of \$3.5m in carried forward works is being provided for in the draft budget from municipal funds. A schedule of the works with relevant amounts is provided for in the budget papers.

*General Operating Expenditure*

All Operating expenditure for the budget has increased by 4.76% over the prior years. Areas of major increases are:

Payroll

The Council's Payroll will increase in line with the Staff Enterprise Agreement. In addition, the Council has approved the appointment of 12 new staff over the 12 months excluding staff funded by external State or Federal government grants and levies. The new appointments include the following:

Statutory Planner (p/t co-ordinator), Swimming pool Inspector, Co-safe Admin officer, Strategic Planner – Graduate, Waste Collection driver, Graphic designer, Parks Maintenance (2), Enviro & Waste Ed Officer, Facilities Projects Supports Officer, Assets/GIS Officer, Management Accountant Graduate: and

Grant Funded – Crèche workers, Early Years officer, Financial Counseling Assistant, Finance Officer + staff for the new Federal Health Communities fund initiative

Utilities

The Council's electricity bill for general use and street lighting will increase by 22.8% to \$3.2m after the recent State Budget. Street Lighting will increase by 29.8%, main buildings will increase by 19.8% with small buildings going up by the general increase of 5%). Council's street lighting cost two years ago was \$1m, in 2011/12, the cost will be \$2m. Given the current projections in the State Budget it is expected the Council's electricity account will rise by some 35% to 40% over the next three years.

Water Charges

This item will increase by 8.5% as per the recent State Budget.

Gas charges have been budgeted to increase by 6%, but the City is waiting for a decision from the State Economic Regulator.

The only utility that has been reducing its prices is Telstra. Although the volume of calls and data usage has increased resulting from more staff and higher levels of activity as a result of being a "growth" Council.

Depreciation

Council provides for depreciation on all assets. For 2011/12, Council will provide \$19.7m in depreciation. Although a non-cash charge against the operating expenditure, Council's budgeting discipline and methodology effectively cash backs the depreciation amount. This provides the free cash that goes to fund asset replacement programs and supports new asset development and purchases.

*Loan Funds*

The Council is set to borrow approximately \$9.5m to fund the following capital projects:

Coogee Beach Surf Club – Stage 2	\$3.5m of \$4.45m
Integrated Health Facility – Cockburn Central	\$4.0m of \$16m
Emergency Service HQ	\$1.0m
Underground Power (Coolbellup)	\$1.0m of \$3.60m

The aim is to borrow low cost funds through the WA Treasury Corporation using the State Government's AAA credit rating.

The loan for the Emergency Service HQ at Cockburn Central will be funded by a self-supporting loan with repayment being made by the City and reimbursed annually by FESA for the principal and interest.

The loan for the integrated health facility will be repaid from the rent income of the facility.

The loan repayments for the construction of the Coogee Beach Surf Club will have to be funded by the Council's municipal fund as the facility will be leased to the Club on a peppercorn rent.

The loan for the Underground Power Project in Coolbellup will be funded by the Specified Area Rate. It will be repaid over five years by the affected ratepayers and repaid to the WA Treasury Corporation on the same basis.

*Reserves*

The Council will transfer \$24m from Reserves to fund Council projects whilst at the same time it will transfer \$22m to reserves from the municipal fund. A detailed list of all reserve transfers is included in the budget papers. Overall the Council will have approximately \$40m in reserves, which will substantially be used to fund Council's capital works program over the next two years.

*New Reserves*Naval Base Site Remediation Reserve

A new reserve will be established for the purposes of future removal of leasehold dwellings at Reserve 24308, Naval Base. All funds raised are to be accounted for on a property lease by lease basis and not who paid the actual payment at the time of the payment. The funds raised per lease will be reimbursed to the leaseholders at the time of the dwelling being removed and the ground rehabilitated to its prior status.

Accumulated interest will be paid to the relevant leaseholder at the time of removal.

### *Proposed Surplus for 2011/12*

The proposed budget is predicated on the principle of a balanced budget. That is the net position of the Income Statement, Capital Income and Expenditure, reserve movements will result in all funds generated for the financial year being used/allocated in the financial year. Any surplus for the 2010/11 Financial Year will be placed in the Community Infrastructure Reserve as per Council's Budget Management Policy to reduce the reliance on debt funding for affected community infrastructure projects.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

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

## **Budget/Financial Implications**

The Budget provides funds for Council's activities in 2011/12. The above recommendation adopts the Budget for 2011/12.

## **Legal Implications**

Section 6.2 of the Local Government Act 1995 requires Council to prepare an annual budget.

Section 6.36 of the Local Government Act 1995 requires the Council to advertise the differential rates proposed in the budget attachments. The Council advertised the differential rates in the West Australian newspaper on Friday 29 April 2011. At the same time the Objects and Reasons to support the differential rates were placed in the Library and on the Council's website. Comments were invited from interested parties. At the date of this report no comments were received.

## **Community Consultation**

N/A

## **Attachment(s)**

1. Municipal Budget for 2011/12 and associated Schedules.
2. Annual Business Plan 2011/12.

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

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

Nil

**17. COMMUNITY SERVICES DIVISION ISSUES**

Nil

**18. EXECUTIVE DIVISION ISSUES**

Nil

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

- 19.1 (OCM 9/6/2011) - NOTICE TO REVOKE SUB-RECOMMENDATION (2) OF PREVIOUS COUNCIL DECISION - 12 NOVEMBER 2009 (MINUTE NO.4093) (CC/C/001; FS/P/003) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council receive the report.

**COUNCIL DECISION**

**Background**

By letter dated 19 May 2011, Clr Reeve-Fowkes submitted a Notice of revocation of the following Council decision made on 12 November 2009:



13.9 (Minute No.4093) (OCM 12/11/2009) – Council Committees

- (2) *not establish any other committees pursuant to Sec. 5.8 of the Local Government Act, 1995.*

This resolution related specifically to a motion which was considered by Council to establish a DAPPS Committee and a Financial Management Committee and was subsequently defeated by Council.

A copy of the statutory notice is attached. In accordance with the notice, should the revocation be successful, it is the intention of Cllr Reeve-Fowkes to move to establish a Committee to specifically attend to items of Delegated Authority, Policy and Position Statements, previously known as 'DAPPS', and to subsequently appoint membership of the Committee, should the motion to establish it be carried.

### **Submission**

N/A

### **Report**

This matter has been the subject of previous reports to Council, most recently on 11 March 2010 and prior to that on 14 May and 12 November, 2009 respectively.

The reports which accompanied these items are attached, identifying Council's current position and providing the information upon which the Council decision is based. Of specific importance is the finding of a Department of Local Government Probity Audit, which identified the rationalising of the Council Meeting Structure as being required – a process which has resulted in the system currently adopted by Council.

Minutes of the Council meetings at which this issue has been previously considered are attached.

It is considered important to distinguish the difference between the strategic and administrative emphasis of the matters which would be presented to a DAPPS Committee.

Primarily, the items related to policy, position statement or delegated authority documents are routine in nature and would rarely, if ever, warrant additional scrutiny prior to being presented to a Council meeting. Therefore, should a DAPPS Committee be established to oversee these documents prior to consideration by Council, it would be necessary for officers to conform with a forward timetable to ensure that necessary schedules for the preparation of agenda items were

met. Effectively, agenda items close 20 days in advance of the Council Meeting to ensure they are subject to executive approval and briefed to Elected Members, before being available for public access 6 days prior to the Meeting. Consequently, a DAPPS Committee Meeting would be required to be held at least a week before that to enable a separate item to be prepared for the Council agenda for the purposes of adopting the Committee Minutes.

The Agenda for the Committee Meeting is required to close 13 days prior to the Meeting, again to enable sufficient time for items to be scrutinised by the executive before being presented to the Committee. Accordingly, it would be necessary for officers to prepare items for a Committee meeting under such a regime. This assumes that there is no formal time set for conducting Committee meetings, which could extend this period if that were the case.

Given these matters are generally not of any greater significance than other matters presented to Council, it is considered an unnecessary time delay in the process of decision-making by Council on such issues. This would be particularly noticeable if an item was to miss one meeting cycle and then be required to wait a period of 3 to 4 months until the next scheduled meeting.

In addition to the time inefficiencies generated by such a system, the additional materials required to produce Committee Agendas and Minutes is a duplication of resources and contradicts Council stated commitment to sustainability and waste reduction objectives.

Since the Council resolution of March 2010, the following ancillary information is provided for consideration.

23 various 'DAPPS' reports have been presented to Council for consideration.

Of these, 16 were adopted 'en-bloc' by Council without discussion, 5 were adopted with amendments, one withdrawn and subsequently adopted in its original form and one not adopted and deferred.

The one deferred item relates to policy SC5 'Corporate Strategic Planning Process' which was deferred to a workshop for the matter to be more closely monitored by Elected Members. Accordingly, this Policy remains in its current status until the matter is reconsidered by Council.

Clearly, this information suggests that the current process of presenting these items directly for Council consideration is acceptable and does not result in any adverse outcomes from the subsequent decisions made by Council.

As suggested in the previous reports on this matter, the referral of Council business for prior examination through a Committee system is superfluous and an unnecessary duplication of resources.

Accordingly, any proposal to redirect matters which can be more expeditiously handled by being directly submitted to Council, is not supported on the basis of administrative inefficiencies which would occur as a result.

However, should the revocation motion be successful and Council subsequently resolves to introduce a DAPPS committees, the following factors should be considered:

- The establishment of Committees requires an absolute majority decision of Council (Sec. 5.8).
- Any Councillor wishing to be a member of one or more Committees is entitled to be appointed to at least one (Sec. 5.10(2)).
- All membership appointments are to be resolved by an absolute majority of Council decision (Sec. 5.10(1)(a)).
- Should the Mayor wish to be a member of any Committee which could have a Council member appointed to it, then the appointment of the Mayor to any such committees is mandatory (Sec. 5.10(4)).
- Committee meetings are only required to be open to the public if given delegated powers by an absolute majority decision of Council (Sec. 5.16(1)).

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

Additional costs will be incurred by Council in the production of Committee Agendas and Minutes.

### **Legal Implications**

Secs.5.8, 5.10 and 5.16 of the Local Government Act, 1995, refer.

Regulation 10 of the Local Government (Administration) Regulations, Clauses 4.10, 16.3, 16.4 and 16.12 of the City of Cockburn's Local Law relating to Standing Orders, refer.

**Community Consultation**

N/A

**Attachment(s)**

1. Copy of Statutory Notice of Revocation
2. Extract of Minutes of the Ordinary Council Meeting – 11 March 2010 – Minute No.4201.
3. Extract of Minutes of the Ordinary Council Meeting – 12 November 2009 – Minute No.4093.
4. Extract of Minutes of the Ordinary Council Meeting – 14 May 2009 – Minute No.3941.
5. Extract from Department of Local Government Probity Audit Report 'Meeting Structure and Process'.
6. Flowchart of Agenda Item Preparation Timeframes – Committee vs Council direct.

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

N/A

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

Nil

20. **NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**
21. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**
22. **MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**
23. **CONFIDENTIAL BUSINESS**
24. **(OCM 9/6/2011) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

- (1) integrated and co-ordinated, so far as practicable, with any provided

by the Commonwealth, the State or any public body;

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**