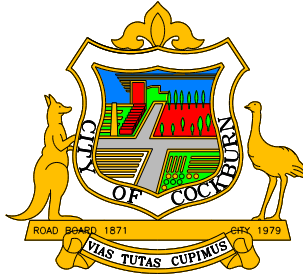


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

**FOR
TUESDAY 21 MARCH 2000**

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 21 MARCH 2000 AT 7:30 P.M.

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 21 MARCH 2000 AT 7:30 P.M.

1. **DECLARATION OF OPENING**

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 (by Presiding Member)**

5. **APOLOGIES AND LEAVE OF ABSENCE**

6. **ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
Mr Stephen Lee - Public Question Time - 15 February 2000 - queried how much it currently cost the Council for membership to WAMA and what would it cost if it became a Single Association.

In a letter dated 24 February 2000, Mr Lee was advised that Council currently contributed \$24,196 in subscribing to WAMA operations which is a figure proportionate to population to each local government in the state which is a member of WAMA. An officer of WAMA indicated that the cost of

membership would reduce as a result of decreased administrative costs from combining the Associations of local government.

Mr Stephen Lee - Public Question Time - 15 February 2000 - queried if there were any conditions on the development approval for renovation, refurbishment and general improvements to the Newmarket Hotel to which the Director Planning responded.

A response from the Chief Executive Officer dated 25th February 2000 clarified that Council cannot enforce the legal agreement for the conservation works until a Certificate of Classification has been issued for any works on the site. With the completion of the bottle shop, the Certificate will be issued and thus trigger the commencement of the timeframe in which the conservation works are to be undertaken. The agreement provides for external restoration to be commenced within 12 months and completed within 24 months.

Mr Laurie Humphreys - Public Question Time - 15 February 2000 - expressed concern about syringes at a bus shelter near the Phoenix Medical Centre and suggested Council contact the appropriate government department to provide collection boxes in the Centres.

A response from the Principal Environmental Health Officer dated 2nd March 2000 gave a brief overview of the current programs and procedures put in place and the services provided by Council's Environmental Health Department, should syringes be found in the area. It also stated that no reports of discarded syringes had been received for that area to date.

7. PUBLIC QUESTION TIME

8. CONFIRMATION OF MINUTES

8.1 (OCM1_3_2000) - ORDINARY COUNCIL MEETING - 15/2/2000

MOVED SECONDED that the Minutes of the Ordinary Council Meeting held on the 15th February 2000 be confirmed subject to:

Min. 432 (Item 13.8) - ACCESS EASEMENT - INITIATION OF LEGAL ACTION - PART LOT 3, 1 ROCKINGHAM ROAD, HAMILTON HILL - NEWMARKET HOTEL SITE

The Recommendation referred to the Grant of Easement Deed dated 25th August 1995 (F966819 E). This should have read Grant of Easement Deed dated 2nd October 1998 (G917087).

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE**10. DEPUTATIONS AND PETITIONS****11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (If adjourned)**

Nil

12. COUNCIL MATTERS**12.1 (OCM1_3_2000) - LOCAL GOVERNMENT STATUTORY COMPLIANCE RETURN - 1999 (1332) (DMG) (ATTACH)****RECOMMENDATION**

That Council:-

- (1) adopt the Local Government Statutory Compliance Assessment Return 1999, as presented; and
- (2) note that the Matrix adopted by Council on 21 December 1999, in response to conforming with Sec. 3.18 requirements has been amended to reflect that Council Building Services can not be undertaken by, or outsourced to, the private sector.

COUNCIL DECISION**Background**

Completion of the first four Statutory Compliance Returns by local governments covering the period 1995 - 1998, was on a voluntary basis.

Participation in the voluntary program has been increasing during this period, notwithstanding it was still a voluntary process.

During 1999, the Local Government Regulations were amended to require an audit of compliance in the form prescribed.

This was principally as a result of a response to the outcomes of the Royal Commission into the City of Wanneroo, in which a number of statutory non-compliance matters were identified.

Submission

The experience of the first four Returns has confirmed that its completion will provide benefits to Council's Administration for internal control monitoring purposes, a management tool for the Chief Executive Officer and as a statutory reporting format to Council and to the Minister for Local Government.

Report

The completed Return is presented to Council for adoption, jointly certified by the Mayor and the Chief Executive Officer and returned to the Department by the end of March 2000. Returns of all Local Governments will be assessed by the Department and in cases of notified serious breaches, or a complaint received by the Department about the manner in which the return was handled by a local government, a follow up visit by a Departmental officer may be carried out.

It should be noted that the Matrix adopted by Council in December 1999, as a response to indicate that Council's services and facilities are being conducted efficiently and effectively, has been amended to delete reference to Building Services being able to be provided by, or outsourced to, the private sector. Enabling legislation to allow this to occur has yet to be placed before Parliament.

The Return provides for THE JOINT CERTIFICATE TO BE READ ALOUD AT THE COUNCIL MEETING.

Strategic Plan/Policy Implications

Key Result Area " Managing Your City" refers.

Budget/Financial Implications

Nil

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

Nil

12.2 (OCM1_3_2000) - RESOLUTIONS - ANNUAL GENERAL MEETING OF ELECTORS (1713) (DMG)

RECOMMENDATION

That Council:

- (1) forward a copy of the resolution carried by the Meeting in relation to the election of Council, to the Western Australian Municipal Association (WAMA) and the Minister for Local Government for their consideration;
- (2) note the resolution carried by the Meeting in relation to the Speedway/Drag Racing Motorplex; and
- (3) forward a copy of the resolution carried by the Meeting in relation to the Powers of State Government, to WAMA for its consideration, as the peak body representing the interests of local government in this State and support the position that legislative amendments are needed to increase the effectiveness of local government decision making;

for reasons outlined in the Report provided on each issue.

COUNCIL DECISION

Background

At the Annual General Meeting of Electors conducted on 7 February 2000, resolutions were passed referring to the future Council elections, the proposed construction of a Speedway/Drag Racing Motorplex and the Ministerial powers provided by the State Government to potentially over-ride Council decisions.

Submission

N/A

Report

1. Election of Council

At the Annual General Meeting of Electors held on 7 February 2000, the following resolution was passed by the meeting:-

"MOVED Heather Smedley SECONDED Pam Townsend, that the ratepayers of the City of Cockburn request the Commissioners to approach the Minister for Local Government on their behalf. In the event of the Council being dismissed or reinstated, an early date be set for an election to reinstate their democratic rights. Their concern is that this will not occur before May 2001. This date is inconceivable and unacceptable to ratepayers. By the end of the Inquiry period, they would have been without elected representation for a period of 12 months. The minimum time required for an election is 6 weeks. We request that this be instigated."

The procedures surrounding the suspension of Councillors and the subsequent Inquiry and Electoral processes, are governed by the provisions of Part 8 of the Local Government Act, 1995.

Therefore, in response to the resolution carried at the Electors Meeting, it is not considered appropriate for Council to adopt a position on this issue, other than to forward a verbatim copy of the resolution to both WAMA and the Minister for Local Government for them to be aware of the concerns raised at the Meeting.

2. *Speedway / Drag Racing Motorplex*

At the Annual General Meeting of Electors of 7 February 2000, the following resolution was passed by the meeting:-

"MOVED Heather Smedley SECONDED Hazel Duggan, that this meeting supports the Council in their opposition to the Speedway/Drag/Motorplex being relocated into Henderson".

The concerns raised at the Meeting were consistent with Council's position adopted at its February 2000 Council Meeting. Therefore, no further action is required on this issue as a letter of concern has been forwarded to the Premier, expressing Council's firm opposition to any proposal to re-locate the proposed Motorplex to Henderson.

3. *Powers of State Government*

At the Annual General Meeting of Electors of 7th February 2000, the following resolution was passed by the meeting:-

"MOVED Heather Smedley SECONDED Mary Jenkins, that this meeting requests that Council lobby councils and WAMA, to address the current abuse of process between state and local government. We feel that it is inappropriate that a single minister can override informed rulings from local government where the decision has been reached from the collective wisdom of the majority of local government Councillors, elected to represent the effected communities. We ask the Commissioners to:

1. *write to all local governments to ascertain support for change to the current situation; and*
2. *if sufficient support is demonstrated, request that WAMA be asked to set up a group to explore the issue and come up with a recommended plan of action.*

This plan could include a fighting fund to take this matter to the High Court."

Ministerial powers are provided by various Statutes to which local government is required to conform. Local government has consistently sought greater autonomy in carrying out its functions without the potential for Ministerial interference in the handling of local issues by Council decisions.

WAMA has acted as the medium by which these concerns have been raised with the State Government. Therefore, it is considered that the resolution should be provided to WAMA, as further confirmation that local government remains very concerned at the Ministerial powers provided by the State which have the potential to determine local issues against the wishes of local government bodies acting on behalf of their communities.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Nil

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

Nil

12.3 (OCM1_3_2000) - REVIEW OF CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 1994 (1116) (LJCD) (ATTACH)

NOTE: The Presiding Member to read aloud a summary of the purpose and effect of the proposed local law.

RECOMMENDATION

That Council:

- (1) receive the proposed City of Cockburn Local Law 2000, as attached to the Agenda and which forms part of this report; and

- (2) advertise the proposed Local Law for public comment pursuant to section 3.12 of the Local Government Act 1995.

COUNCIL DECISION

Background

The City of Cockburn (Local Government Act) Local Laws 1994, have been in force since 14 October 1994. The local laws are somewhat aged and have been redrafted to take into account the changing circumstances.

Submission

The City of Cockburn Local Law 2000 has been drafted in consultation with Staff who have responsibility for the subsidiary legislation and Council's Solicitors have reviewed the local law in respects to the National Competition Policy requirements.

The following statement is to be read aloud to the meeting:

“The purpose and effect of this local law is to provide for the regulation, control and management of animals, reserves, foreshores and beaches, buildings, dangerous and offensive things, hawkers, stallholders and street traders, management and control of property, signs, hoardings, bill postings, streets and public places, traffic and vehicles and law, order and security. The local law also establishes the requirements with which any person must comply and the means of enforcing those requirements.”

Report

The City of Cockburn (Local Government Act) Local Laws are to be repealed and replaced with the City of Cockburn Local Law 2000. The intent in drafting the local law, is to consolidate everything of a general nature into one set of local laws. For example, the local law deals with such matters as dogs, dog kennels, livestock, pigeons, bee keeping, animals, birds and poultry. In the past, issues relating to pigeons and poultry were covered by the Health Local Laws. It was viewed that was an inappropriate way of dealing with such issues and under the City of Cockburn Local Law 2000, offences can be controlled by modified penalties. Modified penalties are not available under the Health Local Laws.

Furthermore, the local law also establishes procedures for dealing with sand and/or dust drift, which has an impact on the environment and

residents. In this regard developers, contractors and builders will be required to submit a Dust Management Plan to Council for approval prior to work commencing. Furthermore, builders or owner builders will be required to have on site, a rubbish receptacle upon commencement of work and for the duration of the construction work. The receptacle can be a 4m³ skip or a wire enclosure of the same capacity with a lid.

Authority has been provided for the issuing of Notices to deal with matters relating to nuisances, sand and/or dust drift removal of graffiti and rubbish adversely affecting neighbours. The traffic provisions have been restructured to provide for better management of issues. There are no schedules depicting the various application forms and licenses. Rather the phrase "*on the form approved by Council from time to time*" has been used throughout the local law. This method eliminates the need of presenting new schedules to Council for approval and subsequent amendment to the local law, every time a form is changed. The new procedure will be that amended forms relevant to the local law, will be presented to Council for adoption and once adopted, the form becomes legal for use.

Fee schedules have been omitted from the local law. Council will determine the fees applicable to the local law in accordance with Section 6.16 of the Local Government Act 1995 and a schedule of fees will be published and adopted with the annual budget. This eliminates the need to amend the local law every time there is an increase in fees.

In the past, local government has had limited authority to issue infringement notices as such related mainly to traffic offences. By virtue of the enabling legislation, the City of Cockburn Local Law 2000 has established modified penalties for offences against the local law. Failure to pay an infringement notice within the prescribed time, means that the matter can be referred to the Fines Enforcement Registry for collection.

If Council resolves to proceed with this matter, an advertisement will be placed twice in The West Australian giving public notice of Council's intention to promulgate the City of Cockburn Local Law 2000. Interested parties will be able to inspect a copy of the local law or obtain a copy of the local law from Council or from one of the other places mentioned in the advertisement and may make a representation to Council in response to the proposed local law. The submission period for representations is 42 days from the date of the first advertisement.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

N/A

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

Nil

13. PLANNING AND DEVELOPMENT DIVISION ISSUES**13.1 (OCM1_3_2000) - AMENDMENT TO DELEGATED AUTHORITY AND COMMITTEE REPRESENTATION IN PLANNING SERVICES DEPARTMENT (SMH) (1015)**

RECOMMENDATION		
That Council:		
(1) amend the Delegated Authority Register in the following way:-		
No.	Authority From	Authority to
DA-PD7	Strategic Planner	Manager Planning Services
DA-PD8	Strategic Planner	Manager Planning Services
DA-PD16	Strategic Planner	Manager Planning Services
DA-PD17	Strategic Planner	Manager Planning Services
DA-PD18	Strategic Planner	Manager Planning Services
DA-PD22	Strategic Planner	Manager Planning Services
DA-PD23	Environmental Manager	Environmental Officer (Planning & Policy)
DA-PD24	Strategic Planner	Manager Planning Services
DA-PD25	Strategic Planner	Manager Planning Services
DA-PD26	Strategic Planner	Manager Planning Services
DA-PD34	Strategic Planner	Manager Planning Services
DA-PD36	Environmental Manager	Environmental Officer (Planning & Policy) Manager Planning Services
(2) nominate the following officers to represent the Council on the following established Committees and Groups:-		
Committee		Replacement
• Wetlands Education Centre Committee		Environmental Officer (Planning & Policy)
• Jandakot Groundwater Discussion Group		Environmental Officer (Planning & Policy)
• Beeliar Regional Park Advisory Committee		Environmental Officer (Planning & Policy)
• Jandakot Botanic Park Advisory Group		Environmental Officer (Planning & Policy)
• Cockburn Sound Conservation Committee		Environmental Officer (Planning & Policy)

• Technical Review Committee for Thomsons Lake Drainage Scheme	Environmental Officer (Planning & Policy)
• Midge Research Group - Yangebup Lake - Market Garden Swamp	Environmental Officer (Technical) Environmental Officer (Technical)
<p>(3) advise the officers of the changes to the delegation and committee representation accordingly; and</p> <p>(4) advise the relevant Committees and Groups of the Council's decision in relation to the change in representation.</p> <p style="text-align: center;"><u>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</u></p>	

COUNCIL DECISION

Background

The Planning Services Department has been re-organised.

The Environmental Manager, Darren Walsh, resigned from the Council to take up a service position in the DEP.

It has been decided that the Environmental Manager will not be replaced and instead, an Environmental Officer (Planning and Policy) be appointed. This was decided following discussions with relevant staff and agreed to by the CEO.

The position of Environmental Officer (Planning and Policy) has been advertised and an appointment has yet to be made.

Submission

The current delegated authority and committee representations needs to be revised and where appropriate, re-allocated.

Report

The recommendation to the Council sets out the proposed change in delegated authority and committee representation.

Strategic Plan/Policy Implications

The Delegated Authority Register is required to be amended to reflect the new position and responsibilities.

Budget/Financial Implications

N/A

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

Nil

13.2 (OCM1_3_2000) - WETLAND CONSERVATION POLICY (6120) (SMH) (ATTACH)

RECOMMENDATION

That Council adopt proposed Policy as PD45 Wetland Conservation Policy for the purpose of advertising it under Clause 11.1.1 of District Zoning Scheme No. 2.

COUNCIL DECISION

Background

Council at its meeting held on 15 February 2000, resolved to defer consideration of the Policy and for it to be referred to the WAPC and DEP for comment. This was to ensure that the policy did not conflict with any Policies applied by these agencies and to also give them an opportunity to comment prior to proceeding to public advertising and adoption.

The Policy was referred as required and comments were received from both the MFP on behalf of the WAPC and from the DEP. Copies of their respective responses are attached to the Agenda.

In response to the submissions received, the Policy has been modified accordingly.

The City is fortunate to contain numerous wetlands which provide a range of ecological, cultural, landscape and recreational functions. These wetlands are of varying forms ranging from relatively deep lakes such as Bibra Lake, through to the seasonal wetlands and damplands of the Jandakot area. Wetland mapping carried out by the Water and Rivers Commission, identified at least 112 different wetlands within the City, of which over 40% are classified in the higher conservation categories.

These wetlands and the values which they possess, play a vital role in shaping the fabric of the landscape in Cockburn. They provide habitat for birds and other animals including bandicoots, contain native flora which is often unique and localised and enhance the local landscape through their aesthetic values. In addition to this, wetlands provide the local community with passive recreational opportunities often not found elsewhere and have significant educational values which together, have led to substantial historical associations between Cockburn's wetlands and its community.

With the current future rate of growth and development within the City, the wetlands continue to be placed under increased pressure. This pressure takes the form of encroachment of development, drainage, changes to hydrology, pollution and competing needs for the provision of suitable active public open space. The present mechanisms for the protection of many wetlands through the planning and environmental approval process, have often been shown to be limited, although Council and its officers have taken a positive approach towards wetland protection within the City. The development of a Wetland Protection Policy is seen as being important to formalise the general approach taken to wetland protection by Council and its officers, to provide a clear, consistent statement on the protection of its wetlands and to provide guidance for dealing with development proposals which have the potential to affect wetlands.

Submission

Responses from the MFP and the DEP are attached to the Agenda.

Report

Issues which can be addressed in a Council Policy relating to wetland protection, relate to those aspects associated with development which, if not properly managed, are likely to have a detrimental effect on wetlands. Key issues are as follows:-

- **Physical encroachment of development** - Care needs to be taken to ensure that development does not encroach too close to wetlands and that important wetland buffers are maintained. Development setbacks should be maintained to ensure that wetland processes and native vegetation surrounding wetlands are not disturbed, in order to minimise impacts on the biological, aesthetic and physical values of wetlands. This includes issues such as clearing, filling and physical modification associated with development adjacent to wetlands.
- **Wetlands and public open space** - The protection of wetlands within development areas usually means reduction in the overall area of developed land. This often places pressure on the provision of active public open space and developers often seek credit for the

wetland area from the 10% gross subdividable requirement. This can lead to reduction of active public open space available to the local community and pressure for development of wetland fringing areas. It is important that the appropriate balance be struck between the provision of active public open space and the retention of wetlands within development areas.

- **Drainage and groundwater management** - Stormwater drainage associated with development adjacent to wetlands, has the potential to cause significant adverse impacts on wetlands if not managed properly. Direct and indirect drainage inputs can lead to the pollution of wetlands with nutrients and other pollutants, create sedimentation and cause alterations to natural hydrological regimes. This can lead to problems with water quality, algal blooms, damage to fringing vegetation and allow the breeding of midge and mosquitoes. Alterations to groundwater within the vicinity of wetlands following development, can also lead to adverse changes in the hydrology of wetlands, leading to wetlands becoming dryer or wetter for longer periods. This can result in loss of ecological, aesthetic and recreational values as well as again creating conditions for midge and mosquito breeding. Consequently, it is important that stormwater disposal and groundwater levels are properly managed when development occurs within the area of influence of wetlands.
- **Pollution and effluent disposal** - Water quality within wetlands can be easily degraded through the addition of pollutants, in particular nitrogen and phosphorus. These pollutants can enter wetlands through drainage and groundwater and lead to algal blooms and other water quality problems which can result in negative impacts such as midge proliferation, odours and other aesthetic impacts. Nutrients and other pollutants can enter the wetlands as a result of surface and groundwater inputs from a range of land uses and may enter drains and groundwater within the catchment of wetlands through spillage, direct discharge or via diffuse means.

It is important that pollutant export from land uses within the service and groundwater catchments of wetlands, is well managed to protect water quality within wetlands. This requires proper planning to ensure developments are sited and designed in a manner which prevents pollutants entering wetlands and implementation of best practice management measures for land use, to ensure long term maintenance of water quality. On-site effluent disposal also needs to be carefully managed in order to ensure that wetland pollution does not occur from these processes.

The proposed policy has been developed to address the key issues outlined above and is intended to apply to all wetlands within the City. The policy is intended to deal with new development, rezoning and

land use and infrastructure proposals and is not intended to apply to existing land use or development. The primary intention of the policy, is to provide Council and its officers with a clear guidance for decision making.

Strategic Plan/Policy Implications

Council's Strategic Plan provides for conserving and improving your environment.

Budget/Financial Implications

N/A

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

The policy is intended to complement existing State Government policies while providing a detailed local approach to planning and wetland protection so as to ensure, where possible, that valuable wetland resources are protected throughout the development process.

While the policy is generally complementary to existing State Government policy, some constraints to its application within the development process may apply, particularly through appeals to the Minister for Planning and Tribunal. The policy itself will not have any legal status, but is intended to provide a clear statement of purpose by Council and provide officers with a consistent approach to managing wetland impacts associated with development.

13.3 (OCM1_3_2000) - POLICY - PD46 - RESPONSE TO APPEALS AND INVESTIGATIONS (9003) (SMH) (ATTACH)

RECOMMENDATION

That Council adopt proposed Policy PD46 - Response to Appeals and Investigations for the purpose of advertising it under Clause 11.1.1 of District Zoning Scheme No. 2.

COUNCIL DECISION

Background

There are situations that arise where the Council changes the recommendation of a Council officer which can lead to an appeal by the applicant and an investigation by the Ombudsman.

In the past, the Council officers have been required to respond to the Minister or the Parliamentary Commissioner and attend as an expert witness to a tribunal dealing with the matter, on behalf of the Council, when the Council decision is contrary to the recommendation of the officer.

This is a difficult situation and places the officer in an invidious position.

The decision making authority needs to be responsible and accountable for its actions where they are different from the recommendations of an officer.

The Local Government Act has been amended to include Regulation 11(d)(da), which now requires Council to document the reasons for making a recommendation different from that of an officer or a committee.

A policy is required to clarify the role and responsibility of the Council and its staff in respect to recommendations and decisions that are different.

Submission

N/A

Report

Attached is a policy which has been prepared to provide for situations where a staff recommendation and a Council decision are different and an appeal or an Ombudsman investigation follows.

The purpose of the policy, is to put the onus for a Council decision squarely with the Council so that:-

- (1) Council decisions which are the same or essentially the same as a staff recommendation, then the staff is obliged, unless the Council directs otherwise, to represent the Council in an appeal or an investigation.
- (2) Council decisions which are not the same as a staff recommendation, then the Council is required to represent its position and if necessary, engage consultants to prepare a response or act as an expert witness on its behalf. The Mover or Seconder of the resolution or a supportive Councillor, would be responsible to represent the Council at a hearing or prepare a response to the Minister or the Ombudsman and where this is not considered appropriate, instead prepare the brief for a consultant to represent the Council.

- (3) Funds to pay for the services of a consultant should be sourced from the Council's funds, namely Account 110255 - Councillors Expenses.

This approach would clarify the role, responsibility and accountability of the Council in this circumstance.

Although the situation does not arise often, a policy makes it clear should it occur in the future.

Strategic Plan/Policy Implications

A new policy is proposed.

Budget/Financial Implications

N/A

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

Nil

13.4 (OCM1_3_2000) - PROPOSED AMENDMENT NO. 220 - REZONING FROM LOCAL RESERVE - PUBLIC PURPOSE TO MIXED BUSINESS - LOT 45; 2 ROCKINGHAM ROAD, HAMILTON HILL - OWNER: TOTALISATOR AGENCY BOARD - APPLICANT: TAYLOR BURRELL (TAB) (2206205) (92220) (JAN)

RECOMMENDATION

That Council:

- (1) adopt the following amendment:-

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

AMENDMENT NO. 220

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

1. rezoning Lot 45 Rockingham Road, Hamilton Hill from 'Local Reserve Public Purposes' to 'Mixed Business'; and
2. amend the Scheme Map accordingly.

Dated this 21 day of March 2000

Chief Executive Officer

- (2) sign the amending documents and advise the WAPC of Council's decision;
- (3) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7 (A)(1) of the Town Planning and Development Act;
- (4) following the receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, forward copies of the signed documents to the Western Australian Planning Commission requesting consent to advertise be granted;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for their consideration, following formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act ; and
- (6) advise the applicant of the Council's decision.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Public Purpose - TAB
LAND USE:	Vacant building (previously betting agency)	
LOT SIZE:	212 m ²	
AREA:		
USE CLASS:	N/A	

Submission

The submitted application proposes the rezoning of Lot 45 located on the corner of Rockingham Road and Healy Road, Hamilton Hill. This amendment seeks to rezone the site from the Local Reserve - Public Purpose (TAB) to Mixed Business.

Report

The site vested in the Totaliser Agency Board and was operated as a TAB agency until recently. The site is now surplus to the TAB's requirements and is to be offered for sale. To facilitate alternative development options, the land requires rezoning.

The subject site has an area of 212 m² of which 128m² is occupied by a 25 year old building, constructed as a purpose built TAB agency.

Land surrounding Lot 45 is zoned 'light Industrial' and 'commercial'.

This area includes an adjoining ice works and timber yard, showrooms and offices. On the opposite side of Rockingham Road, is the Newmarket Hotel and a single residence. The northern side (City of Fremantle) across Healy Road, is zoned residential though it remains largely undeveloped.

The size of Lot 45 is too small to accommodate a Light Industrial use.

The existing combination of business and light industrial development in the locality, suggests that the rezoning of Lot 45 to Mixed Business will not alter or affect the current land use composition of the area.

Furthermore, the draft of Town Planning Scheme 3 proposes the rezoning of most of the immediate surrounding properties to "Mixed Business". Therefore, the rezoning of Lot 14 from Local Reserve to Mixed Business is consistent with the zoning proposed by Scheme 3.

Accordingly, it is recommended that Council initiates an amendment to rezone the subject land to "Mixed Business".

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

**13.5 (OCM1_3_2000) - REVIEW OF THE HEALTH LOCAL LAWS (1125)
(LCD) (ATTACH)**

NOTE: The Presiding Member is to read aloud a summary of the purpose and effect of the proposed local law.

RECOMMENDATION

That Council:

- (1) receive the proposed City of Cockburn Health Local Law 2000, as attached to the Agenda and which forms part of this report; and
- (2) advertise the proposed Local Law for public comment pursuant to Section 3.12 of the Local Government Act 1995.

COUNCIL DECISION

Background

Council's Environmental Health Services have been using the Model Series A Health Local Laws, which were adopted by Council on the 25 September 1963. These local laws were amended from time to time to deal with the change in community standards.

Submission

The City of Cockburn Health Local Law 2000, has been drafted in consultation with the Principal Environmental Health Officer and his staff and the National Competition Policy requirements have been taken into consideration.

The following statement is to be read aloud to the meeting:

“The purpose and effect of these local laws is to provide for the regulation, control and management of day to day health matters and to establish various health standards and requirements for the district.”

Report

The Model Series A Health Local Laws are to be repealed and replaced with the City of Cockburn Health Local Law 2000. The intent in drafting the local laws, was to produce a local law that dealt specifically with health issues. Matters of a general nature such as

pigeons, rubbish receptacles, stables and large animals are not included in the Health Local Laws. Rather, these issues have been written into the City of Cockburn Local Law 2000.

The City of Cockburn Health Local Law 2000 is based on the City of Perth Health Local Law 1993. This draft of the local laws represents a significant update to reflect contemporary standards of public health and to include local issues.

There are no schedules depicting the various application forms and licenses. Rather, the phrase "*on the form approved by Council from time to time*" has been used throughout the local laws. This method eliminates the need of presenting new schedules to Council for approval and subsequent amendment to the local laws every time a form is changed. The new procedure will be that amended forms relevant to the local laws, will be presented to Council for adoption and once adopted, the form becomes legal for use.

Fee schedules have been omitted from the local laws. Council will determine the fees applicable to the local laws in accordance with Health Act 1911, and a schedule of fees will be published and adopted with the annual budget. This eliminates the need to amend the local laws every time there is an increase in fees.

If Council resolves to proceed with this matter, an advertisement will be placed twice in The West Australian, giving public notice of Council's intention to promulgate the City of Cockburn Health Local Law 2000. Interested parties will be able to inspect a copy of the local law or obtain a copy of the local law from Council or from one of the other places mentioned in the advertisement and may make a representation to Council in response to the proposed local law. The submission period for representations is 42 days from the date of the first advertisement.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

N/A

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

Nil

13.6 (OCM1_3_2000) - CAR PARKING SITE - LOT 14 CLARENCE BEACH ROAD, MUNSTER - OWNER: LANDCORP (WESTERN AUSTRALIAN LAND AUTHORITY) - APPLICANT: EGIS CONSULTING AUSTRALIA (3412263) (JAN) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the proposed car parking development on Lot 14 Clarence Beach Road/Cockburn Road Munster, subject to the following:

Standard Conditions:

Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N^o 2;

Special Conditions:

1. A plan to be submitted detailing planting of shade trees at the rate of 1 for every 8 carparking bays in accordance with Council Policy PD40 (Henderson Industrial Area - Development Control);
 2. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
 3. Landcorp being responsible to ensure that the operation of the carpark enables safe and unimpeded access for articulated vehicles towing large boats along Clarence Beach Road to the waterfront, in accordance with the Egis Consulting facsimile dated 14 March 2000.
 4. Satisfactory arrangements to be made by the Applicant with the City for the ongoing maintenance, public liability and drainage of carpark facilities situated within the Clarence Beach Road reserve.
- (2) issue a MRS Form 2 Notice of Approval valid for a period of 2 years;
- (3) advise those who made a submission of Council's decision accordingly.

COUNCIL DECISION

Background

ZONING:	MRS:	General Industry
	DZS:	General Industry
LAND USE:	Informal car parking	
LOT SIZE:	1778m ²	
AREA:	N/A	
USE CLASS:	Not Listed	

The submitted application proposes the construction of a carpark with capacity for 238 bays to serve the shipbuilding industry. The development is proposed on Lot 14 Clarence Beach Road adjacent to the intersection of Cockburn Road and Russell Road.

Plans of the proposed carpark and the surrounding development are included in the Agenda attachments.

The application was referred to adjoining landowners, and only one submission was received (in support).

Report

Based on two studies conducted in the Henderson Industrial Area, (*Henderson Industrial Area Amenity Study by Max Margetts & Associates - June 1998*) and *Strategic Concept Plan - Henderson Industrial Area Amenity Project by City of Cockburn - 1998*) it is clear that existing car parking arrangements are unsatisfactory.

A lack of formalised parking is evident in the northern part of the industrial area. This precinct located immediately adjacent to the shipbuilding area along Cockburn Road, needs to provide an adequate parking provision.

In many instances vehicle parking demand is not being accommodated on the premises. This is having a significant impact on the amenity of the estate. Uncontrolled vehicle parking on the street verges and along the road pavements also presents a safety hazard as well as an impediment to the functional movement of traffic in the area.

As the application concerns a use not listed in the District Zoning Scheme No. 2, the application was advertised to all adjacent interested landowners according to Clause 6.2

It is recommended that the proposal be approved based on the following criteria:

- The land affected by the proposal is currently used as an informal carparking.
- Landcorp, as the owner of the land is funding the project.
- The need to alleviate the current parking debacle in the area.

There is also a need to formalise ongoing maintenance arrangements with Landcorp for that portion of the carpark to be constructed within the Clarence Beach Road Reserve.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The carpark construction is to be funded by Landcorp.

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

The application also requires the approval of the Western Australian Planning Commission pursuant to Clause 32 of the Metropolitan Region Scheme.

13.7 (OCM1_3_2000) - AGM - RESOLUTION - COOGEE BEACH (9120) (SMH)

RECOMMENDATION

That Council note the resolution of electors relating to Coogee Beach at the Annual General Meeting held on 7 February 2000, for reasons outlined in the Report.

COUNCIL DECISION

Background

On 7 February 2000, the Council held its Annual General Meeting.

A number of resolutions were passed from the floor, which are required to be considered by the Council under the provisions of the Local Government Act.

Submission

The meeting resolved:-

"Coogee Beach

MOVED Mary Jenkins SECONDED Heather Smedley that Council:

1. *stop the forward planning process now and take back from the developers, the responsibility of regional development planning;*
2. *undertake an open assessment, along with State Government, of the coastal environmental requirements and our recreational needs and conduct proper community consultation;*
3. *set aside an adequate width of coastal reserve to cater for the identified environmental and recreational criteria and consistent with State Government Policy, identify any land which is surplus to these coastal needs and make it available for potential development.*

Only at this stage, should the normal planning process so often cited by our politicians, be applied.

MOTION PUT AND CARRIED"

Report

1. Regional Planning is undertaken by the WAPC.

The only developers on the coast are State or quasi State agencies.

- **North Coogee**

Landcorp in conjunction with DOCAT is planning, subdividing and selling land in the Robb Jetty Estate.

- **Port Catherine**

WAPC has a development agreement with Australand to develop a marina on the old Consolidated Marine Holdings land at Coogee.

- **Jervoise Bay/Henderson**

Landcorp and DOCAT are planning, subdividing and promoting the Northern Harbour and Southern Harbour Projects at Jervoise Bay for shipbuilding and off shore oil and gas rigs.

At North Coogee and at Henderson, a Clause 32 call in control is applied by the WAPC to approve and refuse development in these State funded and promoted estates. The Council has only a minor role.

It is unlikely that the State would allow the Council to influence projects undertaken by Landcorp and DOCAT.

2. The Council has already completed a study of the coast which was adopted in November 1999. This report was the "Integrated Coastal Management Study" undertaken by Ecoscope and Coastwise. This study included extensive public participation and involved all of the coast from South Beach to the Jervoise Bay shipbuilding area and inland to the coastal ridge.

Recently, the Ministry for Planning announced that it had engaged the UWA to undertake a recreational and beach use study in the Perth Metropolitan Area between Yanchep to Port Kennedy. The survey was undertaken between Sunday 5 and Sunday 12 March 2000.

3. The MRS sets aside a Parks and Recreation Reserve along the coast, except for the coast included within the Jervoise Bay shipbuilding area and Southern Harbour Project.

Planning of the coast by the State has been completed and land committed to existing and future use.

Coastal planning has been completed for Cockburn, except for the final plans relating to the Port Catherine development. There is no scope for the Council to influence the planning or use of the coast, under the current planning legislation or landownership.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Regional Planning is a State responsibility, the Council can only make recommendations.

Under Section 3.18(3) the Council should not duplicate a service provided by the State Government.

Council is responsible for local planning which must be consistent with the MRS. The Council has no choice.

13.8 (OCM1_3_2000) - AGM - RESOLUTION - WATER MANAGEMENT (6111) (SMH)

RECOMMENDATION

That Council note the resolution of electors relating to Water Management at the Annual General Meeting held on 7 February 2000, for reasons outlined in the Report.

COUNCIL DECISION

Background

On 7 February 2000, the Council held its Annual General Meeting. A number of resolutions were passed from the floor, which are required to be considered by the Council under the provisions of the Local Government Act.

Submission

The meeting resolved:-

"Water Management

MOVED Heather Smedley SECONDED Hazel Duggan, that Council ensure that no more run off finds its way into Cockburn Sound and that this becomes a condition of development. We request that alternative strategies be implemented eg: pumping the water to the Kwinana Industrial Area for re-use or use on verges and parks.

CARRIED"

Report

The Council does impose conditions on development which requires landowners to contain their stormwater on site. This will apply to developments in the catchment to both Cockburn Sound and Owen Anchorage.

The re-use of industrial waste water has been investigated in the past and to date, no initiatives in this regard have been taken. The Council has no expertise in this area, nor does it have the legal capacity or resources to promote such a scheme.

Nevertheless, the State Government has endorsed the establishment of the Cockburn Sound Management Council, which will be responsible for the management of the Sound in respect to both the catchment on the land side and the activities and uses on the water side. Currently the management area is planned to extend from the Kwinana Freeway west to Garden Island and from Woodman Point south to Point Peron.

The role of the affected Councils of Cockburn, Kwinana and Rockingham at this point is not clear.

This resolution is one that can be brought to the attention of the new Council by a member such as Com-Net.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

It appears that the planning, management and development control within the proposed Cockburn Sound Management Area will be the responsibility of the Cockburn Sound Management Council.

Any action taken by this Council, would be deemed to be a duplication of the service provided by the State. The Council therefore should not become involved based on the requirements of Section 3.18(3) of the Act.

13.9 (OCM1_3_2000) - AGM - RESOLUTION - CAT EDUCATION (1008) (SMH)

RECOMMENDATION

That Council:

- (1) note the resolution of electors relating to Cat Education at the Annual General Meeting held on 7 February 2000; and
- (2) require the Customer Services Manager to prepare an article for publication in a local newspaper circulating within the district and for inclusion in "Cockburn Soundings", about the importance of native fauna and the need to control pets in the interests of fauna conservation and protection;

for reasons outlined in the Report.

COUNCIL DECISION

Background

On 7 February 2000, the Council held its Annual General Meeting. A number of resolutions were passed from the floor, which are required to be considered by the Council under the provisions of the Local Government Act.

Submission

The meeting resolved:-

"Cat Education

MOVED Pam Townsend SECONDED Rex Gate, that Council proceed with an intensive and ongoing educational program about the wildlife that exists in Cockburn and encourage Cockburn residents to control their pets including keeping cats in at night.

MOTION PUT AND CARRIED"

Report

The Council has limited control of the behaviour of pet owners. However, the Council can increase public awareness about the importance of native fauna in the district and the risk that uncontrolled pets can have on their habitat and survival.

The Customer Services Manager could prepare a suitable article to be included in the local newspaper and in "Cockburn Soundings" to bring the community's attention to this potential problem.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

It does not appear that by producing a public awareness article in the local newspaper or in the Council's "Cockburn Soundings", that it is duplicating any government or private sector service.

13.10 (OCM1_3_2000) - POLICY - RETAINING WALLS AND PARTY WALLS (VG) (3217) (ATTACH)

<p>RECOMMENDATION That Council:</p> <ul style="list-style-type: none">(1) adopt the attached Planning and Development Policy - PD47 - Retaining Walls;(2) include a summary of the policy in the "Cockburn Soundings"; and(3) make the policy available to the public in brochure form from the Customer Services Counter.

<p>COUNCIL DECISION</p>

Background

There is a need to have a Policy to help adjoining owners and building owners to resolve differences and to be aware of their responsibilities in relation to retaining walls and party walls placed on or near property boundaries.

Submission

N/A

Report

Council receives many enquiries from the public about retaining wall questions which are not Council business. Dealing with these non Council issues, takes an inordinate amount of staff time and a policy is needed to advise the public how it can obtain the information it needs.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

13.11 (OCM1_3_2000) - DELEGATED AUTHORITY - SECTION 374(1b) LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 (3108) (VG)

RECOMMENDATION

That Council delegate its authority to approve or to refuse to approve plans and specifications under Section 374(1b) of the Local Government (Miscellaneous provisions) Act 1960, to Council's Building Surveyor, Edwin Roy O'Meara.

COUNCIL DECISION**Background**

Mr E R O'Meara is due to commence his employment with the City of Cockburn on 20 March 2000 and part of his agreed duties, is to approve or refuse building plans and specifications under delegated authority of Council.

Submission

N/A

Report

Mr O'Meara has the necessary Local Government Qualifications to accept this delegation.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Local Government Act 1995, compliant.

**13.12 (OCM1_3_2000) - TRAVELSMART PROPOSAL (9635) (AJB)
(ATTACH)**

RECOMMENDATION

That Council:

- (1) register an expression of interest with Transport for a grant for a Travelsmart Officer;
- (2) approach the City of Fremantle seeking support to share an officer and for the preparation of a joint submission; and
- (3) instruct the Manager Planning Services to prepare a submission accordingly.

COUNCIL DECISION

Background

Travelsmart is a program run by the Department of Transport to encourage more people to use public transport rather than the private

car. A pilot project was carried out in South Perth in 1997/98. This involved the following:-

- Randomly selecting households from the telephone directory.
- Sending a letter signed by the Mayor and the Minister for Transport to the selected residents requesting their co-operation in the project.
- Sending additional information to those residents selected to participate.
- Telephone interviews with the selected participants.

If the results of the pilot project were applied to the City of South Perth, the following benefits could be gained.

- A 14% reduction in vehicle emissions.
- Savings of just under \$7,800 per day through more walking.
- An increase in number of local journeys to the benefit of local businesses in the City of South Perth.
- An average increase of 4 minutes exercises in walking.
- A 91% increase in cycling, a 22% increase in walking, a 21% increase in public transport and a 4% increase in trips by car passengers.
- A 10% reduction in traffic by local residents.

In November 1998, Council considered a report on the Travelsmart proposal and resolved to endorse the value of the program by Department of Transport in endeavouring to encourage more people to use public transport and to approach the Department, requesting the extension of the program to cover the City of Cockburn to coincide with the implementation of the Rockingham to Fremantle transitway and the railway to Thomsons Lake.

In January 1999, Transport advised that Travelsmart Stage 1 was unfunded at that time and depending upon funding, consideration could be given to extending the program following completion of Stage 1, which is scheduled to run over the next 4 to 5 years. Whilst the time frame did not coincide with the introduction of the Rockingham to Fremantle System 21 improved bus service, it may coincide with the commencement of the railway to Thomsons Lake.

Submission

Correspondence recently received from Department of Transport, advises that it is seeking to expand the Travelsmart program through sponsorship of a limited number of part-time Travelsmart Officers in local governments.

Expressions of interest from interested local governments wishing to take advantage of the Travelsmart Officers' Grant Scheme, are to be forwarded to Transport by 20 April 2000.

Report

The State Government's Metropolitan Transport Strategy aims to reduce the growth in car driver only trips and to achieve a better balance between other modes of transport including cycling, walking and public transport.

The Department of Transport "Better Public Transport - Ten Year Plan for Transperth 1998-2007" provides the blueprint for improved public transport. In respect to the City of Cockburn, this includes the Perth - Mandurah railway through Thomsons Lake, Rockingham/Kwinana/Cockburn/Fremantle System 21 service and services to Perth via Booragoon.

The proposed improvement in the provision of public transport infrastructure within the City, is reflective of the residents' dissatisfaction with the system as evidenced by the response on this issue in the 1998 City of Cockburn Community Needs Study, which stated that the lack of public transport is an issue for Council to address.

The public transport system within the City of Cockburn and its environs, is being improved generally in line with the Better Public Transport document. The high frequency System 21 service to Rockingham and Fremantle, will commence in April 2000 and modifications have been made to other services to reduce travel times and provide better levels of frequency. A freeway bus service from Atwell/Success to Perth is now operational and it is planned that the railway system should be to Thomsons Lake in 2004.

However, the provision of an improved level of public transport is only one part of the equation. The other important part is achieving an increase in usage. Improved services will, in part, achieve an increase in usage, but it has been demonstrated by the pilot Travelsmart program, that the most effective increase in usage is achieved through individualised marketing.

In recognition of the importance of individualised marketing, Transport is proposing to work with selected local governments to generate Travelsmart Local Action Plans in support of the transport planning objectives of the Metropolitan Transport Strategy. The action plan will develop policies, shape programs and provide information in support of increasing the role of walking, cycling and public transport in Perth.

To implement the plan, Transport is offering grants to cover the salary costs of Travelsmart officers with local government contributing to the

cost of overheads such as office accommodation, computers, phones and consumables.

The grant for each successful local government, will be for the salary cost of a half-time officer (\$20,000 per annum) for an initial period of two years. The officers will be located at the Council Offices but will be required to work with Department of Transport. Full details are set out in the Grant Criteria contained in the Agenda attachments.

Given Council's previous support of the Travelsmart program and the impending implementation of improved public transport services in the district, it is considered that the City should apply for a grant for a Travelsmart Officer.

In addition to the public transport benefits, the Travelsmart program has the potential to decrease the growth in private car usage and hence positively contribute to reducing greenhouse emissions.

In December 1999 Council made a commitment to reducing greenhouse emissions by 20% in both the community and the corporation. The successful implementation of the Travelsmart program will assist in achieving this target.

It is also considered that the program would be more successful if this were done in partnership with the City of Fremantle, which is a primary destination. Accordingly, it is recommended that Council approach the City of Fremantle with a view to engaging a full time Travelsmart Officer to be shared between the two councils.

It is proposed that the officer would form part of the Strategic Planning Team. A desk can be provided and arrangements will need to be made for an additional phone service. A spare computer is available. The cost to accommodate the officer should be minimal.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Allowance will need to be made in the Strategic Planning Service budget for the cost of a phone service and consumables.

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

Nil

13.13 (OCM1_3_2000) - SECTION 3.18(3) OF THE LOCAL GOVERNMENT ACT 1995 - IMPLICATIONS FOR STATUTORY PLANNING SERVICES (92222) (SR)

RECOMMENDATION

That Council:

- (1) adopt the following amendment: -

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 2

AMENDMENT NO. 222

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

Inserting the following clause into the Scheme Text after Clause 1.7.2:

1.7.3 "An approval given by the Western Australian Planning Commission to use or develop land zoned under the Metropolitan Region Scheme shall be deemed to be an approval under this Scheme."

Dated this 21st day of March 2000

Chief Executive Officer

- (2) sign the amending documents, and advise the WAPC of Council's decision;
- (3) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7 (A)(1) of the Town Planning and Development Act;
- (4) following the receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, forward copies of the signed documents to the Western Australian Planning Commission requesting consent to advertise be granted;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for their consideration following formal advice from the Environmental Protection Authority that the Scheme or Scheme

Amendment should not be assessed under Section 48A of the Environmental Protection Act ;

- (6) seek a legal opinion concerning Council's general statutory decision-making powers delegated by the WAPC pursuant to the Metropolitan Region Scheme Act and related legislation; and a report be presented to Council for consideration.

COUNCIL DECISION

Background

The purpose of this report is to examine the issues involved in the Council continuing to exercise its development control functions for the various classes of development which also require the approval of the Western Australian Planning Commission under the Metropolitan Region Scheme Act. It discusses the duplication of statutory planning processes between Council and State Government.

Section 3.18(3) of the Local Government Act 1995 states:

"(3) A local government is to satisfy itself that services and facilities that it provides -

- (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body;*
- (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*
- (c) are managed efficiently and effectively."*

Report

1.0 Relationship of Council's Town Planning Scheme to the Metropolitan Region Scheme

Clause 1.7.1 of District Zoning Scheme No. 2 states that:

"The Scheme is complementary to and is not a substitute for the Metropolitan Region Scheme and the provisions of the Metropolitan Region Scheme shall continue to have effect."

Clause 26 of the Metropolitan Region Scheme states that a local authority approval to develop (zoned) land shall be deemed to be an approval under MRS. Clause 28 of the Metropolitan Region Scheme requires applications for development approval to be made on an MRS Form 1 and to be submitted to the local authority.

Clause 29(1) obliges the local authority to forward those applications which require WAPC determination (pursuant to Cl. 29) to the Commission within seven (7) days. Clause 29(3) is expressed in 'discretionary' terms, ie, "... the local authority may, (within 42 days) make recommendations for consideration by the Commission..."

The statutory procedures for applications requiring determination by the WAPC under the Metropolitan Region Scheme and those determined by Council pursuant to its Local District Zoning Scheme No. 2 are virtually identical and include:

- application requirements;
- matters to be considered by the decision-making authorities;
- ability to impose conditions; and
- Appeal provisions.

WAPC Policy DC 1.2 includes the following significant statement:

"1.7 The purpose of this policy is to set out the general principles that will be applied by the Commission in its determination of those applications for which it is the responsible authority. It should be noted that for land which is zoned by the scheme, the separate approval of the relevant local government may also be required under the provisions of its own town planning scheme."

This clearly contemplates cases where the separate approval of the relevant local government also may not be required under the provisions of its own town planning scheme.

2.0 Extent of Current Duplication

There are various classes of development for which the approval process is duplicated as separate Planning Approvals are issued, firstly, by the WAPC under the MRS and, secondly, by the Council under District Zoning Scheme No. 2. These are:

1. Developments deemed by the WAPC to be of state or regional significance;

2. Poultry farms, extractive industries and any development deemed 'inconsistent' with the purpose of the Rural zone;
3. Shopping Centres;
4. All development in excess of \$50,000 within the Henderson Industrial Area;
5. All development in North Coogee.
6. All development within Planning Control Areas (Clause 35C of the MRS)

There has been an average of 16 'duplicate' applications per annum determined by Council and the WAPC over the past five (5) years. This represents 6 - 7.4% of the average number of planning applications determined by the Council over the same period.

3.0 Implementation Issues

Clause 29(3) of the MRS enables the Council to make a Recommendation to the WAPC on 'duplicate' approvals. This is currently routinely but not necessarily always done for applications on land reserved under the MRS. From an administrative efficiency and staff resource viewpoint, such Recommendations should be made only in exceptional cases.

From the viewpoint of seeking to influence an outcome in the interests of 'local' planning (to the extent that this is distinct from 'regional' planning), the Council should on occasions exercise its discretion to make such recommendations.

Legislation governing the Council's Building Control functions is separate from the MRS and Council's District Zoning Scheme. It is appropriate, however, that there should remain an administrative obligation that any Building Licences issued not precede or be inconsistent with a Planning Approval issued by the WAPC. It is understood that this will be a requirement of the new Building Act, which provides for private certification of Building Licences, independently of local government.

Section 3.18(3) of the Local Government Act does not preclude 'duplication', but rather requires the City to determine what it considers to be an inappropriate extent of duplication.

In summary the Council has no statutory obligation to require a 'duplicate' Planning Approval under District Zoning Scheme No. 2 for developments which also require WAPC approval pursuant

to Clause 32 or to Clause 35C (Planning Control Areas) of the MRS.

The statutory means for the Council to eliminate its decision-making duplication in respect to Cl. 32 determinations under the MRS is available via a simple Scheme Amendment , by inserting a clause in Council's Scheme as follows:

"An approval given by the Western Australian Planning Commission to use or develop land zoned under the Metropolitan Region Scheme shall be deemed to be an approval under this Scheme."

This is a 'mirror' of Clause 26 of the MRS which states that an approval issued by the Council (for the remaining classes of development not requiring approval by the WAPC) shall be deemed to be an approval under the MRS.

Following finalisation of such an Amendment, Council would retain a discretion provided by Cl. 29(3) of the MRS, being whether or not the Council wished to make a Recommendation to the WAPC for individual applications or a class of applications.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The loss of Service Unit income due to not processing 'duplicate' planning applications is not considered significant, being currently in the order of \$4,000-\$5,000 per annum.

There should be a freeing up of planning staff resources, estimated to be in the order of 80 - 100 hours per annum. There will still be residual administrative requirements to receive applications for referral to the WAPC.

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

As outlined above.

13.14 (OCM1_3_2000) - INITIATION OF PROPOSED AMENDMENT 205 TO DISTRICT ZONING SCHEME NO. 2 - LAND BOUNDED BY RIGBY AVENUE, MELL ROAD, ROCKINGHAM ROAD AND SOUTHERN BOUNDARIES OF LOT 11 ROCKINGHAM ROAD, LOT 24 MELL ROAD, AND INCLUDING LOT 291 ZLINYA CIRCLE (92205) (SA) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following amendment:-

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

AMENDMENT NO. 205

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

1. Rezoning Lots 49, 48, 42, 43, 47, 46, 45 and 44 Rigby Avenue and Part Lot 10 Rigby Avenue; Portion of Lot 41 and Lot 24 Mell Road; and Part Lot 40, 10, 11 and portion of Part Lot 11 and Lot 12 Rockingham Road from "Rural" and "Local Reserve - Public Purpose - Primary School" to "Residential R30"

Dated this 21st day of March 2000

Chief Executive Officer

- (2) refer the Amendment No. 205 to the Environmental Protection Authority for assessment under Section 7A2 of the Town Planning and Development Act;
- (3) advertise Amendment No. 205 in accordance with Planning Bulletin No. 29 following receipt of written advice from the Environmental Protection Authority that the Scheme Amendment is not required to be assessed under Section 48A of the Environmental Protection Act.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	"Rural and "Local Reserve - Public Purpose - Primary School"
LAND USE:	Market Gardens and houses	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

The various parcels of land the subject of the amendment are located within the Packham Urban Development Area, and the land is zoned "Urban" under the Metropolitan Region Scheme. The land identified for the Primary School on the subject site is no longer required by the Education Department.

This amendment is subject to similar implications as a previous amendment in the area, Amendment No 121, where several landowners in the Watsons Odour Buffer wanted to rezoned their land from "Rural" to "Residential R30". The outcome of this amendment was that the Council and the Hon. Minister refused final approval of the amendment on the grounds that the Odour Buffer and modelling issue was not resolved, resulting in a interim Odour buffer. Council was advised that the Department of Environmental Protection opposed any further residential development within the interim buffer distance of 500 metres from the Watsons Plant.

Submission

This amendment will rationalise the zoning in the overall area, and the adopted structure plan will allow Lots 42, 43 and 44 Rigby Avenue to subdivide the rear portions of their properties into Residential Lots with road frontage. The proposed "Structure Plan" for the land and adjacent properties is attached.

The applicant states that:

"The Education Department is a willing participant in this amendment, having recently requested Urban Focus to incorporate that land held by the Minister for Education (as part of the proposed Packham Primary School Site) in a subdivision application and rezoning with the other private held land in the above site."

Report

The subject land included in the proposed amendment is subject to the interim 500 metre Watsons' Odour Buffer currently prescribed by the Environmental Protection Authority. The Watsons' Odour Buffer is to be redefined by mid 2000.

A portion of the amendment land is included in the Odour buffer, however it is still recommended to initiate the amendment on the following grounds:

1. a significant portion of the amendment land lies **outside** the Odour Buffer and the portion that lies inside the buffer has substantial existing residential development on the land;
2. the amendment land is an isolated development cell within the Packham Urban Development Area, adopting this amendment will **not** set an undesirable planning precedent for other land within the Odour buffer. The proposed amendment and structure plan can be assessed independently of the other land in the buffer.
3. the proposed amendment will be referred to the Department of Environmental Protection (DEP) as a part of the amendment process, and the DEP will be able to fully assess the impact of the Odour buffer on the proposed amendment.
4. Based on the precedent of Amendment No. 121 the Amendment will not be finalised until such time as the Watsons Odour Buffer has been redefined to the satisfaction of the DEP.

Strategic Plan/Policy Implications

Policy PD23 states that:

"The City of Cockburn requires that where a proposal for a change in landuse conflicts with an existing buffer zone, then the onus is on the buffer beneficiary to show that the buffer is current, has been scientifically determined and is based on the use of best practicable management practices for minimising emissions. Unless this can be clearly demonstrated by the buffer beneficiary, then Council will fully support the proponent of the proposed landuse change providing that other planning and environmental considerations are properly met."

Budget/Financial Implications

N/A

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

Section 35A of the Metropolitan Region Town Planning Scheme Act (1959) requires Council's Town Planning Scheme to be in conformity with the Metropolitan Region Scheme.

The subject land is partly affected by the interim 500 metre Watsons' Odour Buffer currently prescribed by the Environmental Protection Authority.

13.15 (OCM1_3_2000) - WESTERN AUSTRALIAN LAND AUTHORITY ACT 1992 - PROPOSED AMENDMENT - PAYMENT OF LOCAL GOVERNMENT RATES (5230) (SMH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) write a letter based on the report to:-
 - Chief Executive Officer of WAMA;
 - Minister for Lands;
 - Minister for Local Government;
 - Federal Treasurer, the Minister responsible for the implementation of the National Competition Policy; and
 - Federal Member for Fremantle

Expressing Council's concern about the proposed amendment to Section 32 of the Western Australian Land Authority Act, which prohibits the ability of local governments to collect rates from vacant land held by Landcorp.

COUNCIL DECISION

Background

Council, in 1992, considered the proposed introduction of the Western Australian Land Authority Act and resolved to recommend to WAMA that it:-

*"... requested to make representation to the Premier and the Minister for Local Government **expressing Council's concern that Local Authorities were not informed of the intended change of rating status of Landcorp prior to 1st July 1992 which has had a detrimental effect on Local Authorities budgets for 1992/93.***

The reason for the Council considering this matter, was set out in the following extract of the Council Report:-

"In November 1992 Council received correspondence from Landcorp that due to the fact that the Western Australian Land Authority had taken over the residential land operations of Landcorp, the land owned by Landcorp was exempt from rates from 1st September 1992. This action left outstanding rates of \$33,903 owing by Landcorp for the period 1st September 1992 to 30th June 1993 unpaid and therefore a shortfall in Council's budgeted income.

The City Treasurer then wrote to the Minister for Lands expressing concern at the way the matter had been handled as it was considered local authorities should have been informed of the prospective change of status of Landcorp and therefore have been able to adjust budgeted income accordingly.

A reply has now been received from the Minister for Lands in which while he acknowledges the short term problems faced by some local authorities he states that there was no mechanism by which the rate could be paid.

It is proposed that WAMA be requested to make representation to the Premier and the Minister for Local Government on our behalf. Other Councils known to be affected are Canning, Kwinana, Swan and Nedlands.

Copies of the letter from Landcorp, the letter by the City Treasurer and the reply by the Minister for Lands are attached to the Agenda."

The proposed Amendment to Section 32 of the Western Australian Land Authority Act, **"could now provide the mechanism by which rates could be paid to local government"**

According to Landcorp's 1999 Annual Report, the Chairman advised that:-

"On January 1, 1999, Landcorp's exemption from rates and taxes was discontinued under the amended Act and competitive neutrality reforms were introduced. The Authority now operates on an equal footing with private sector land developers in respect to rates and taxes."

Currently the Act states:-

"Authority exempt from rates, taxes etc.

32. Notwithstanding section 15, the Authority is not liable to pay any local government rate or charge, land tax, metropolitan region improvement tax, water rate, pay-roll tax, stamp duty or

other rate tax, duty, fee or charge imposed by or under a written law."

Section 32 is to be repealed under the Amendment Act 1998 (No. 60 of 1998) and substituted with an amended Section 32 described in Clause 20(1).

The notes contained in Clause 20 to the Amendment Act advise:-

"Clause 20

Clause 20(1) repeals existing section 32 and replaces it with a new section 32 in order to give effect to competitive neutrality reforms by a tax equivalent regime and removing the general exemption from Government rates and taxes.

*Under new section 32, the Authority effectively is liable to pay all Government or public authority rates, taxes, and duties **except local government rates**, in the same way that private persons are liable to pay them (for example, water and sewerage rates and stamp duty). The Authority is only liable to pay local government rates in respect of land that it leases or lets to another person who is not a public authority, or that it owns jointly with another person."*

and

*"The effect of new section 32(4) is that the **Authority must pay a tax equivalent amount to the Treasurer equal to the amount of local government rates** that the Authority would be otherwise liable to pay to the local governments but for section 32."*

Submission

The new Section 32 is to be worded as follows:

"32. Liability of Authority for duties, taxes, rates etc.

(1) *Despite section 5(5) or any other written law-*

(a) *the Authority; and*

(b) *deeds or other instruments to which it is a party,*

are liable to and chargeable with duties, taxes or other imposts under any written law.

(2) *Despite subsection (1) and section 15, but subject to subsection (3), land vested in or acquired by the Authority is not rateable land for the purpose of the Local Government Act 1995.*

- (3) ***If the Authority leases or lets land vested in or acquired by the Authority, or holds land jointly with another person who is not a public authority, the land is, by reason of the lease, tenancy or joint holding, rateable land for the purposes of the Local Government Act 1995.***
- (4) ***The Authority is to pay to the Treasurer in respect of each financial year an amount equivalent to the sum of all local government rates and charges that, but for subsection (2) and section 6.26(2)(a)(i) of the Local Government Act 1995, the Authority would have been liable to pay in respect of that financial year.***
- (5) *Subsection (4) does not apply in relation to land that is rateable under subsection (3).*
- (6) *An amount payable under subsection (4) -*
- (a) *is to be determined in accordance with such principles; and*
 - (b) *is to be paid at such time or times.*
- as the Treasurer may direct.*
- (7) *The first payment under subsection (4) is to be in respect of the next full financial year after the commencement of the Western Australian Land Authority Amendment Act 1998.*

{Section 32 inserted by No. 60 of 1998 s.20(1).}"

The Western Australian Land Authority Amendment Act 1998 was assented to on 31 December 1998, but has yet to be proclaimed.

Report

Although it may be correct that from 1 January 1999, Landcorp was required to pay rates and taxes, this did not form part of the Financial Statements in the Annual Report, apparently because it did not commence until 1 July 1999, according to the Valuer General's Department.

Enquiries were made with the Finance Department of Landcorp to find out what the Authority had paid to Treasury between 1 January and 30 June 1999, or may pay from 1 July 1999.

Despite numerous telephone calls to Treasury, Valuer General's Department and Landcorp, no one would divulge the amount of taxes

paid to the State Agencies or the amount of the local government rates equivalent paid to Treasury.

There is a fundamental problem with the way in which Landcorp is proposing to comply with the National Competition Policy, given that Section 19 of the Act states:-

"19. Subject to any direction given under Section 24, the Authority is to perform its functions in accordance with prudent commercial principles."

Landcorp, as opposed to a State Government Department or Agency or a local government, is a "for profit" organisation and operates in the competitive market place for the purchase, development and sale of land to the private sector.

Landcorp, for all intents and purposes, is a private developer accountable to the State.

The problem is that the payment of "tax equivalents" to supposedly create a level playing field with its competitors, is inappropriate when applied to local government rates because the land purchased and held by Landcorp, is not for a public purpose but for participation in the private sector residential and industrial land markets.

The payment of local government rates as a "tax equivalent" by Landcorp to the State, is not acceptable because:-

- They are not paid in response to an actual notice issued by the local government, as is the case for say a water rate prepared and issued by the Water Corporation to Landcorp.
- It is understood that the amount of the local rate equivalent is determined by the Valuer General, based on the accepted land valuation and rating practice, as is applied to each local government within which Landcorp holds vacant land. The process is not transparent and the imputed value and rate equivalent for each property, may not be available for the local government records for each property, for public information. Under Section 5.94 of the Local Government Act, the Council is required to provide public access to its rates and property records. This should also apply to land held by Landcorp.
- There is apparently, no legislation to prevent the rates equivalents paid to Treasury being returned to Landcorp from General Revenue. However, the State is a signatory to the National Competition Policy and therefore, is subject to complaint investigations should it be alleged that it has not acted in the spirit of the Policy. The process for such investigations is not clear.

- Rates are paid to local government by landowners (other than for land held by the State or local government for a public purpose), to enable the local government to carry out its functions and services in respect to all land within their respective districts. In Landcorp's case, the rates are not paid to the local government as is required of any other private land holder.
- Local government rates are its primary source of revenue.
- The substantial rates exemption enjoyed by Landcorp since 1992, has arguably created a rates shortfall, the cost of which has been transferred to non-exempt ratepayers and will continue to be the case under the change to Section 32.
- Local government rates is a source of revenue that the State Government is not entitled to collect. Local government rates are not a State tax, rate or charge.
- In essence, from a whole of Government perspective, there is really no change to its overall financial position because the new expenditure has simply become a new income and so the status quo remains.

It is clear that to create and maintain a truly transparent neutral advantage in respect to the payment of local government rates, the rates should be paid to the local governments directly where Landcorp holds vacant land.

Perhaps, to be consistent, the State Government should be prepared to pay its State Tax as equivalents to the Federal Treasury. This is a comparable analogy.

The approach lacks public accountability because the amount of rates equivalent paid for all the vacant land that Landcorp owns, together with the amount paid on individual properties and the value placed on the vacant land, should be available to the public. This disclosure would also demonstrate that Landcorp has paid its rates and taxes, thereby being seen to be meeting its National Competition Policy commitments.

It appears inconsistent to allow say the Water Corporation, to debit Landcorp direct for the collection of "its" rates, while the local government "rates" are determined and collected by the State with no benefit to local government.

For the State to legislate for the collection of rates and taxes by government agencies from Landcorp, while at the same time denying the ability for local government to collect the rates legitimately owed to it, is discriminatory.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The National Competition Policy provided a potential for local government to achieve an increase in its rate revenue from privatised Government Agencies. In the case of Landcorp, the potential existed for the pre 1992 rating situation (ie: non-exemption) to be reinstated however, this has been circumvented by the State Government's legislation.

This potential income has been lost to local government because of the way in which the State has sought to comply with the National Competition Policy.

Every endeavour should be made to have the proposed legislation changed so that local government, in the interests of their respective communities, can achieve the additional income owed to it as a result of decisions by the State to privatise and corporatise State agencies involved in the ownership and development of vacant land.

Just like the State, local government is responsible for providing services and facilities to the Western Australian community for no other reason than to build a better Australia. Like the State, it must maximise its opportunities to collect revenue to achieve its community objectives.

This is an important equality of government issue.

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

Under Section 3.18(3) of the Local Government Act it states:-

"(3) A local government is to satisfy itself that services and facilities that it provides -

- (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body;*
- (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*
- (c) are managed efficiently and effectively."*

The proposal by the State to amend Section 32 of the Western Australian Land Authority Act 1992, is contrary to the requirements of

Section 3.18(3) of the Act imposed by the State on local government, in that the proposed changes to the Western Australian Land Authority Act:-

1. do not integrate or co-ordinate with the current rating and property records maintained by the Council and available for public inspection under Section 5.94 of the Act;
2. duplicates the collection of local government rates;
3. do not represent an efficient or effective way to comply with the requirements of the National Competition Policy because:-
 - (i) it introduces a method of tax equivalent collection, when a local government collection method already exists;
 - (ii) the collection method uses State resources to ensure the financial status quo of the State is retained;
 - (iii) the proposed changes do not represent the re-distribution of new money within the community.
 - (iv) the tax equivalent of local government rates is ineffective because it is not committed to the provision of local community services and facilities, but collected by Treasury as general revenue. This means that it is being diverted from its 'purpose' (ie Local government rates) as described in the legislation and being directed to Consolidated Revenue; with no compensatory funding through equivalent grant funding from the State Government back to local government.

The Council should draw this important matter to the attention of WAMA, State and Federal Governments, so that local government can also benefit from the privatisation and corporatisation of State agencies. It is an important issue of principle and equity for local government in Western Australia.

13.16 (OCM1_3_2000) - DELETION OF POLICY PD4 - HEIGHT CONTROL ADJOINING THE RIDGELINE - HENDERSON INDUSTRIAL ESTATE (9003) (SMH) (ATTACH)

RECOMMENDATION

That Council delete Policy PD4 - Height Control Adjoining the Ridgeline - Henderson Industrial Estate from the Policy Manual.

COUNCIL DECISION**Background**

The Council first adopted this policy in the 1980's in an endeavour to protect the important limestone ridgeline. At the same time there were plans to develop the Eagle Aircraft factory and airstrip which also required height controls in the vicinity of airstrip approaches.

Now that the Government has proceeded with the Southern Harbour Project, which requires the removal of the ridgeline for fill to create the harbour reclamation, there appears to be no point in retaining the current policy.

Submission

N/A

Report

It is extremely disappointing that this significant coastal ridgeline is required to be removed in support of the Southern Harbour Project.

The Council had initially intended that the crest of the ridge be retained as POS and that the areas either side be levelled for industrial lots. The retention of the ridge would have retained a semblance of the landform and have prevented the skyline becoming dominated with the outline of large industrial sheds.

Now that the Southern Harbour Project earthworks have commenced, Cockburn Road is being realigned and the MRS to provide for the harbour has been finalised, there is no benefit in retaining the policy. The policy in any event had no statutory effect.

Given this Policy PD4 should be deleted from the Policy Manual.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

The Henderson Shipbuilding Area is already zoned industrial under the MRS. To provide for the Northern Harbour extensions and the Southern Harbour Project the Council has no choice but to amend its Scheme to comply with the MRS. The local Scheme Amendments have been or are about to be finalised.

Moreover, the Henderson Industrial Estate is a Clause 32 WAPC call-in area, and therefore all development requires the approval of the Commission in addition to that of the Council.

Clause 32's that require WAPC and Council approval are a duplication of services and therefore the Council should consider not processing applications in this area to accord with the requirements of Section 3.18(3) of the Local Government Act. This is the subject of a separate report.

In addition, the Council does not approve subdivisions, it only makes recommendations and all zonings that proceed to advertising are determined by the Minister for Planning not the Council. The Council's Scheme must be consistent with the MRS.

Given all this, the Council's Policy, if it was to be retained it is unlikely to have had any effect on the planning and development of the Southern Harbour Project.

13.17 (OCM1_3_2000) - AMENDMENT NO. 182 - LOT PT 1 AND LOT 781 CNR NORTH LAKE ROAD AND BERRIGAN DRIVE, SOUTH LAKE - OWNER: B & R INVESTMENTS PTY LTD (92182) (SR) (ATTACH)

RECOMMENDATION

That Council:

- (1) advise the applicant and the Western Australian Planning Commission that it adopts the modifications detailed in the WAPC letter dated 4 February 2000 in accordance with Regulation 21 of the Town Planning Regulations 1967.

COUNCIL DECISION

Background

Amendment No. 182 proposed to amend Lots Pt 1 and 781 from Residential R15 and R30 to 'Mixed Business - Restricted Use'.

The history of the Amendment is included in the previous Council report (Item 13.8) OCM 14.9.99).

Council resolved at its meeting on 14 September 1999 to advise the WAPC and the Applicant that:

"(1) the Council has no objection to the Minister granting final approval to Amendment No. 182, subject to adding point 3. to the Amendment Text as follows:-

"3. Amending the Scheme Text by adding to the "Third Schedule - Restricted Uses" additional provisions to protect the amenity of adjoining residential areas as follows:

Street	Particulars of Land	Restricted Uses
Cnr Berrigan Drive and Forrest Road	Lot 781 and Pt Lot 1	<p><i>those uses which may be permitted within the Mixed Business Zone as set out in the First Schedule (Zoning Table), excluding the following uses: Hotel/ Tavern, Veterinary Hospital, Cottage Industry, and subject to the following conditions:</i></p> <ol style="list-style-type: none"> <i>1. Building setbacks to Residential boundaries shall be a minimum of 3 metres;</i> <i>2. A masonry wall not less than 2 metres in height shall be constructed along boundaries with Residential zoned land;</i> <i>3. No vehicular access to Labyrinth Way shall be permitted.</i>

(2) Any Development applications for the site shall be required to address the following matters:-

1. A traffic and circulation study being conducted, at the developer's cost, by a suitably qualified and independent consultant, to the Council's satisfaction;

2. *Information on the possible impact of lighting and noise on the adjoining residents being submitted by the developer to ensure no adverse impact on the adjoining residents, to the Council's satisfaction;*
3. *The development application being advertised for public comment."*

Report

The modifications specified by the Minister for Planning are substantially the same as those previously agreed to by the Council. In fact it is significantly more 'restrictive' in that an additional nine (9) uses which would otherwise be permissible in the Mixed Business zone have been excluded by the Minister.

Pursuant to Regulation 21 of the Town Planning Regulations 1967 the Council is required to endorse the modified Scheme Amendment documents. The decision as to ultimately whether and in what form the Amendment is approved rests with the Minister for Planning.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

13.18 (OCM1_3_2000) - PASQUARELLI AUTOMOTIVE - 96 FORREST ROAD, HAMILTON HILL OWNER/APPLICANT: ANTONIO & OLIMPIA PASQUARELLI (MAP 7) (WEST) (SR) (2203804)

RECOMMENDATION

That Council:

- (1) refuse the application for an Automotive Service Centre for the following reason:

The use constitutes a 'Light Industry' which cannot be approved by Council within the 'Commercial' zone.
- (2) issue an MRS Form 2 Notice of Refusal to the applicant accordingly.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Commercial
LAND USE:	Currently Motor Vehicle Servicing & Repairs	
LOT SIZE:	1062 m ²	
AREA:	1062 m ²	
USE CLASS:	To Be Determined	

The existing land use of the site as a motor vehicle servicing centre, was brought to Council's attention by a complainant. The complainant operates a similar business (automotive repairs) and states that when the subject property was for sale in 1999, he contacted the Council and was advised by staff that such a use could not be approved as it was classified as an 'X' use in the 'Commercial' zone.

The site was approved as a Car Sales Yard in 1982 with conditions restricting the use of the garage to the storage and display of motor vehicles. The previous car sales yard ceased business and the garage is now used for motor vehicle repairs.

The applicant was advised to cease the use and consequently submitted a Planning Application seeking Council's approval for the activities currently being conducted on the site. The application was advertised to ascertain if there were any neighbours concerns about the use. No submissions were received.

Submission

Council received a letter from Mr Pasquarelli outlining his business activities. These activities include:

- General servicing of vehicles
- Brake and clutch repairs
- Cooling system servicing
- Engine & electronic repairs

The definition of Motor Vehicle Repair Station in the District Zoning Scheme No.2, includes such uses as tyre recapping, retreading, panel beating, spray painting and chassis reshaping. Mr Pasquarelli has stated that none of the above services are provided by the business.

Report

The matter which requires Council's determination, is the correct categorisation of the use class. The following use class definitions were considered by Council's Solicitors (refer to advice circulated under separate cover):

1. **'Motor Vehicle Repair Station'** ('X' use) - on face value, this seems the appropriate use class however, it is specifically defined as including "*tyre recapping, retreading, spray painting and chassis reshaping*"; none of which occur on the subject site. Council's Solicitors advise that this is not the appropriate use class.
2. **'Industry-Service'** ('AA' use) - is defined as "*a light industry carried out on land or in Buildings which may have a retail shop front and from which goods manufactured on the premises may be sold or Land and Buildings having a retail shop front and used as a depot for receiving goods to be serviced*". This was the use class under which an Automasters facility was permitted by Council to operate in a 'Commercial' zone, by virtue of the inclusion of a small retail shopfront.
3. **'Industry-Light'** ('X' use) - is defined as "*an Industry in which the processes carried on, the machinery used and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products*".
4. **'Service Station'** - the use class is defined in the Scheme to mean "*Land and Buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use but does not include transport depot, panel beating, spray painting, major repairs or wrecking.*"

Council's Solicitors advise that "Apart from the small scale sale of oil, the business does not involve the supply of petroleum products or motor vehicle accessories, but it is clear it does involve minor mechanical repairs. The services provided are services which one would expect to be provided in the garage component of a traditional service station.

The apparent view of Mr Gilmour QC that it is not necessary for petroleum products to be sold for a use to fall within the Service Station use class, the word "and" where it appears for the first

time in the second line of the definition being disjunctive rather than conjunctive.

We agree it is possible to read the definition in that way, but it is not a view we favour. To the mind of an ordinary reasonable person, the sale of petroleum products is an integral part of the commonly understood meaning of a "Service Station". We feel it is more appropriate to interpret the definition in accordance with that generally understood meaning, so that the use of land and buildings for "carrying out greasing, tyre repairs and minor mechanical repairs" falls within the Service Station use class only if the use also involves the "supply of petroleum products and motor vehicle accessories".

Nevertheless, the City has received the advice of a Queens Counsel that a use similar to that operated by Pasquarelli Automotive is a Service Station, and in our view it would not be unreasonable for the Council to rely on that opinion."

5. **'Use Not listed'** ('SA' use) - the scheme states that:

"3.2.3 Where in the Zoning Table a particular use class is mentioned that use class is deemed to be excluded from any other use class which by its more general terms might otherwise include that particular use class.

3.2.4 If the use of Land for a particular purpose is not specifically mentioned in the list of use classes in the Zoning Table or is not included in the general terms of any of the use classes a person shall not so use Land unless the Council determines by an Absolute Majority that the proposed use is consistent with the objectives and purpose of the Zone and the Council may grant Planning Consent after notice of the application has been given in accordance with Clause 6.2."

The Officer's opinion is that the correct use class category is 'Industry - Light' as the activities involve the repairing of an article (motor vehicles). Legal advice concerning this interpretation will be circulated under separate cover.

There is some concern regarding the precedent set if automotive service centres are permitted to operate in a Commercial zone. Although residential amenity does not appear to be a concern in this particular case, it may be difficult or unreasonable to limit the range of servicing activities undertaken in other such centres. There is no shortage of suitably zoned 'Light Industrial' land within the city to accommodate such uses.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

The applicant may have a right of Appeal to the Minister for Planning or the Town Planning Appeals Tribunal in the event that the application is refused.

13.19 (OCM1_3_2000) - REQUEST FOR DIRECTION TO MAKE A LOCAL LAW TO REGULATE THE MAINTENANCE AND USE OF LAKES FOR CABLE SKIING (ALL) (WJH) (1125)

RECOMMENDATION

That Council:

- (1) request the Executive Director, Public Health, to direct Council to make a Local Law to regulate the maintenance and use of lakes for cable skiing; and
- (2) authorise the Principal Environmental Health Officer to liaise with the Health Department of WA regarding the drafting of the Local Law.

COUNCIL DECISION**Background**

Due to an anomaly in Health Act Regulations, the Cable Ski Lakes located at the Cable Water Ski Park in Munster are not subject to the same standards and requirements such as those that apply to public swimming pools in the district.

Submission

N/A

Report

Section 134 (48a) provides the head of power for a local government, to make local laws to regulate the construction, equipment, maintenance and use of lakes for cable skiing.

Where the Executive Director, Public Health (EDPH) directs a local government to adopt a local law (such power exists in the Health Act), the local law adoption process can be expedited.

In order to correct this anomaly, it is recommended that Council request the EDPH to direct Council to adopt a local law to regulate the maintenance and use of lakes for cable skiing. Direction by the EDPH will enable this to be done quickly, because the alternative processes provided for in the Local Government Act, are slow and cumbersome.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

14.1 (OCM1_3_2000) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for February 2000, 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

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.2 (OCM1_3_2000CM1_3_2000) - LUCENT TECHNOLOGIES MOBILE PHONE POLE ANTENNA AND MICROWAVE INSTALLATION - ROOF TOP COUNCIL OFFICES COLEVILLE CRESCENT (2211868) (KJS) (ATTACH)

RECOMMENDATION

That Council refuse the application by Lucent Technologies Australia Pty Ltd, to a lease portion of the roof of the Council offices.

COUNCIL DECISION**Background**

The Council offices are situated on freehold land owned in fee simple by the City of Cockburn. Lucent Technologies has inspected the roof of the Council offices and determined that the site satisfies their requirements in establishing a node for their mobile phone network. Lucent Technologies is the technical operator for the One.tel mobile phone company.

Submission

Lucent Technologies have submitted an offer to lease contract by offer and acceptance, plans of the communication shed, pole and antenna proposed for the roof, company backgrounds and information on electromagnetic fields.

- Planning issues clarification from consultants GHD for a Low Impact Mobile Phone Facility.
- Photo montage depicting the proposal.

Report

The Federal Telecommunications Act 1997 has determined that if a proposed mobile phone installation is of Low Impact, ie. it is less than 5 metres high, then it is not subject to planning approval. This proposal is deemed to be a Low Impact installation.

Lucent Technologies has determined that the Council roof is the best location for the equipment. Factors that determine the location are distance and line of sight to other antennas existing and proposed.

An alternative site to the Council office roof, would most likely be on the Phoenix Shopping Centre. The shopping centre is lower so the antennas may have to be mounted on a taller tower or the flag pole.

Based on Council refusing to reject the request to install the facility, Lucent could utilise certain compulsory acquisition powers.

Schedule 3 - Carrier's powers and immunities of the Telecommunications Act (1997) in a simplified form states in part that "*a carrier may enter on land and exercise any of the following powers:*

The power to install a facility on the land"

Whether the roof of a building qualifies as land is not clear. The photo montage with the pole inserted indicates that the visual impact will be minimal. Whether this depiction accurately represents the real life visual impact is problematic.

As the owner of the building most suited to an installation, the City needs to weigh up the community benefit in having access to a range of competing mobile phone operations against the visual impact of the pole and antennas.

Lucent Technologies, in their offer to the City, has offered an annual rent of \$9,000 payable monthly in advance. Rent reviews proposed would be annual and based on the C.P.I. - Perth All groups.

Informal discussions with a licensed valuer indicate that there is not a lot of evidence to determine the market value of such a lease. Inquiries to two other Councils indicate that annual rents being offered by the industry were in the order of \$5000 several years ago, but have risen to around the proposed offer. The C.P.I. Perth All groups for the December 1999 quarter was 0.7 or 2.8% annually.

The rent promoted in this report acknowledges the Council offices roof's unique position and height, the visual impact and the long term of the lease. The Local Government Act requires that a Licensed Valuer provide a market valuation and that the proposal being deemed a disposal be advertised for at least fourteen (14) days if a decision is made to proceed with the offer.

Annual testing of the electromagnetic fields generated by the installation will serve to allay any concerns from staff and visitors to the Council offices.

Strategic Plan/Policy Implications

The City of Cockburn's strategic objectives includes the following: *"Facilitate a range of services responsive to the community needs"*. The community of Cockburn, like the rest of Australia, has embraced the use of the mobile phone.

Budget/Financial Implications

N/A

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

Nil

14.3 (OCM1_3_2000) - DISPOSAL OF PUBLIC RECREATION RESERVE 37398 - TOLLEY COURT, HAMILTON HILL (2200815) (KJS) (ATTACH)

RECOMMENDATION

That Council dispose of Public Recreation Reserve 37398 Tolley Court, Hamilton Hill and lodge surplus funds generated by the sale in a reserve for the purpose of capital improvements to recreational land within Hamilton Hill subject to:

- (1) necessary approvals from the Western Australian Planning Commission being received;
- (2) Council adhering to the Guidelines of the Department of Land Administration for the administration of 20A Public Recreation

Reserves in regard to advertising and public consultation; and
(3) there being no objection to the sale from owners of land within 250 metres of the site as well as in Tolley Court, Riggs Way or Healy Road.

COUNCIL DECISION

Background

The City of Cockburn Open Space Strategy 1999 identified Reserve 37398 as being "constrained by its size and has little capacity to support recreational uses". The report went on to recommend that "the revenue raised from the sale of the land could be effectively used for the embellishment and redevelopment of facilities....."

Submission

N/A

Report

The reserve has been created as a Condition of Subdivision pursuant to Section 20A of the Town Planning and Development Act for the purpose of Public Recreation. The Department of Land Administration as the ultimate manager of Crown land has drawn up guidelines to be followed when a local authority wants to rationalise Section 20A Public Recreation Reserves. The issues that need to be addressed are that, the subdivider give up the land for the purpose of public recreation and that people purchasing land in the vicinity may be influenced in their decision to purchase the property by the fact that there was a recreation reserve in the vicinity. To address these issues it is necessary to obtain approval from the State Planning Commission who imposed the original Condition of Subdivision and secondly, the land owners in the vicinity. The method to be followed in regard to the land owners is to place an advertisement in the local paper, place a sign on site and also write directly to the immediate land owners. In the advertisements information will be sought on how the surplus funds should be spent bearing in mind that it has to be spent on recreation facilities in Hamilton Hill.

Strategic Plan/Policy Implications

City of Cockburn Strategic Plan, Objective 4 states "Facilitate a range of services responsive to the community needs". Given that, input will be sought from the community in the proposed advertising.

Budget/Financial Implications

The anticipated income from the sale is \$70,000 whilst there is estimated to be \$3,000 in expenditure.

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

Nil

14.4 (OCM1_3_2000) - LAND USE RESTRICTIONS - LOT 52 ROCKINGHAM ROAD - HENDERSON LANDFILL SITE (3412022) (KJS) (ATTACH)

RECOMMENDATION

That Council:

- (1) pay Mrs. B M Caratti \$20,000 to extinguish the carriageway easement that is in favour of Lot 4 Rockingham Road and Lot 6 Moylan Road, Henderson and which burdens City of Cockburn freehold Lot 52 Rockingham Road;
- (2) request that Mrs B M Caratti acknowledge that she wishes to continue her occupation of the house at Lot 6 Moylan Road knowing that it is within a 350 metre landfill buffer zone; and
- (3) amend the 1999/00 Budget by increasing Account No.483191 (Transfer from Rubbish Development Reserve Fund) by \$20,000 and increasing Account No.485818 (Land Purchase) by \$20,000.

COUNCIL DECISION

Background

The Caratti family own Lot 4 on Rockingham Road and Lot 6 on Moylan Road. In the past the family owned the land between these two parcels. When the family sold the land to Swan Portland for a

quarry they retained a right of carriageway across the quarry land. Swan Portland subsequently finished quarry operations and sold the land to the City for a landfill operation. The right of carriageway travelled with the land.

The Department of Environmental Protection has a policy which limits the establishment of landfill operations within a 350 metre radius of sites. The house on Lot 6 is well within this buffer.

Submission

N/A

Report

The Caratti family has indicated that they would agree to the extinguishment of the right of carriageway that burdens the City's Lot 52, for a reasonable price. They have also indicated that, if a satisfactory agreement could be reached that they would enter into negotiations to sell to the City Lots 4 and 6. A valuation has been obtained from Licensed Valuer, Jeff Spencer which shows a fair consideration for the carriageway to be \$13,900.

The Caratti's engaged Licensed Valuer, Frank Woodmore who assessed the fair consideration to be \$15,000. Mrs R Caratti has indicated to the City's Land Officer on several occasions, that her mother, Mrs B M Caratti will only commence negotiations on the land once the City has purchased the carriageway easement. She has further said, that the minimum she will accept is \$20,000 for the extinguishment. The purchase of Lots 4 and 6 is crucial to the long term planning and operation of the landfill site. A valuation report has been commissioned by Jeff Spencer, Licensed Valuer. It is felt that the offer of \$5,000 which is in excess of the Woodmore Valuation can be justified, given the strong stance taken by the owners and the need to progress the subsequent purchase of Lots 4 and 6.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Account No.483191 (Transfer from Rubbish Development Reserve Fund) by \$20,000.

Account No.485818 (Land Purchase) by \$20,000.

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

Nil

15. ENGINEERING AND WORKS DIVISION ISSUES

15.1 (OCM1_3_2000) - COOGEE BEACH ACCESS (3300004) (1903) (JR) (COASTAL)

RECOMMENDATION

That the provision of improved access to the Coogee Beachfront adjacent to the jetty, be noted for possible inclusion in the 2000/2001 Budget for reasons outlined in the Report.

COUNCIL DECISION

Background

At the Electors' Meeting conducted on 7 February 2000, it was resolved that an engineering solution be investigated to provide access, including disabled access, to Coogee Beach adjacent to the jetty.

The continual movement of beach sand adjacent to the concrete step on the north side of the jetty abutment at times results in a large step, and the preferred access on the south side of the abutment is hampered by handrails.

Submission

N/A

Report

Currently, access to the beachfront for the disabled is available via the ramp for the disabled on the south side of the jetty abutment. More direct access may be facilitated by removing a section of handrailing on the south side and providing a wide ramp directly to the beachfront adjacent to the jetty abutment. The access on the north side will need to be stabilised by an effective treatment to minimise the beach sand movement adjacent to the concrete step.

As the design of these access ramps will be influenced by sand movement, a specialist consultant will be engaged to investigate and complete the design. Depending on the extent of work required, the works may need to be included in the next Budget.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Depending on the extent of works required, the project may be able to be completed on the current Budget utilising funds allocated for Coogee Jetty.

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

Nil

15.2 (OCM1_3_2000) - PASSES FOR ENTRY TO HENDERSON LANDFILL SITE (TIP PASSES) (4900) (BKG)

RECOMMENDATION

That Council reaffirms its decision that:

- (1) the matter (changing tip pass system) be deferred; and
- (2) a question be included in the next *Community Needs Survey* to ascertain feedback from the community before a decision is made;

for reasons outlined in the Report.

COUNCIL DECISION

Background

At the Electors' Meeting held on 7 February 2000, it was resolved to reaffirm a previous motion that was put to retain existing tip passes.

Submission

N/A

Report

At the Council meeting held on 15 February 2000 staff prepared a report for Council's consideration on the cessation of issuing free entry

vouchers (tip passes) to residents for domestic waste. This was to occur on 1 July 2001.

The reasons put forward were:

- (1) it encourages and supports recycling initiatives; and
- (2) reduced costs to some ratepayers.

Council stated they had received advice at recent meetings of ratepayer concern with regard to tip passes. It was decided to defer the matter until the completion of the *Community Needs Survey* later this year in order to ascertain the wishes of the community.

Strategic Plan/Policy Implications

The speakers at the electors' meeting stated that the issue of tip passes minimises the chances of the public dumping rubbish in the bush and on road verges. This is in accordance with the Corporate Mission Statement to make the district the most attractive place to work, live and visit.

Staff had promoted the abolition of tip passes as a method of encouraging recycling and reducing costs. This supports a strong community desire for the protection of the environment through recycling which is part of the Corporate Plan.

Budget/Financial Implications

N/A

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

Nil

15.3 (OCM1_3_2000) - BEAUTIFICATION OF ROCKINGHAM ROAD - LANDSCAPING (450498) (6129) (AC)

RECOMMENDATION

That Council defer a decision on the beautification of Rockingham Road through landscaping, including appropriate tree planting and seating, until adoption of the City's Greening Plan, which includes design and implementation strategies and priorities for tree planting and the provision of street furniture and fixings for major, arterial and suburban roads within the City of Cockburn for reasons outlined in the Report.

COUNCIL DECISION**Background**

At the Electors' Meeting held 7th February 2000, the meeting resolved that Rockingham Road be beautified through landscaping, including appropriate tree planting and seating.

Submission

N/A

Report

On the 19th April 1999, the City appointed Alan Tingay and Associates to prepare a Greening Plan for the City, for the purpose of acting as a guide for on ground works and for future policy and planning applications. A key objective of the Greening Plan is to develop a long-term strategy for the beautification of streetscapes through landscaping. The plan is to include design and implementation strategies and priorities for tree planting and the provision of street furniture and fixings for major, arterial and suburban roads within the City of Cockburn.

A draft of the report will be submitted to the Council for consideration at its meeting to be held on 18th April 2000, before release to the public for comment. Preparation of the draft included extensive consultation with the public by way of displays at Phoenix Park and Gateway shopping centres, a student workshop with student representatives from local schools and four community workshops that were conducted for the purpose of obtaining a local perspective. In addition, a steering committee comprised of community representatives was established to guide development of the plan.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

15.4 (OCM1_3_2000) - WOODMAN POINT JETTY/COOGEE BEACH - LITTER (9507) (1903) (JR) (COASTAL)**RECOMMENDATION**

That Council note the information on:

- (1) the correspondence sent to CALM regarding improving the management of rubbish at Woodman Point Jetty;
- (2) the beach cleaning measures being trialed at Coogee Beach; and
- (3) a letter to be forwarded to CALM requesting them to clean the beaches within their reserves within the same timeframe as Council cleans Coogee Beach;

for reasons outlined in the Report.

COUNCIL DECISION**Background**

At the Electors' Meeting conducted on 7 February 2000, it was resolved that:

- (1) Council approach CALM to provide adequate rubbish bins at Woodman Point Jetty, that they be cleared frequently, and that signage in various languages be provided to encourage fishing people to use the rubbish bins and to take their rubbish away; and
- (2) Council clean the beach at an adequate frequency.

Submission

N/A

Report

Correspondence has been forwarded to CALM in accordance with the resolution from the Electors' Meeting. In regard to cleaning the beach, a trial is currently under way with a beach cleaning contractor to determine the extent and frequency of mechanical cleaning required, with a view to introducing a regular program. In the initial trial, the

beachfront from the jet ski area north of Coogee Jetty through to Woodman Point Jetty was mechanically cleaned, however there was a cost of about \$1,000 associated with this contract work. The Budget will allow another two cleans this season and the results can then be assessed for accommodation of the works in future budgets.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Any regular mechanical cleaning of Coogee beachfront will need to be accommodated in future Budgets.

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

Nil

15.5 (OCM1_3_2000) - ROCKINGHAM ROAD TRAFFIC (450498) (JR)

RECOMMENDATION

That Council take no specific action to calm and reduce through traffic in Rockingham Road as it is performing its intended function as a District Distributor A road. for reasons outlined in the Report.

COUNCIL DECISION

Background

At the Electors' Meeting conducted on 7 February 2000, it was resolved that measures to calm and reduce through traffic on Rockingham Road be proceeded with as a matter of priority. It was felt that there was a large volume of speeding through traffic using Rockingham Road.

Submission

N/A

Report

Rockingham Road is classified as a District Distributor A road in the adopted City of Cockburn Road Hierarchy. Typically, minimum traffic volumes and speeds of above 8,000 vehicles per day and 60-70 km/hr

would not be considered unusual for such a road. Rockingham Road has also been identified as a designated Secondary Truck Route within the City to access industrial areas and shopping centres.

Past traffic surveys along Rockingham Road indicate the following characteristics:

Location	Daily Traffic Volume, vpd	85%ile Speed, km/hr
■ West of Forrest Road	12,575	N/A
■ East of Carrington Street	15,991	N/A
■ South of Lancaster Street	15,750	N/A
■ North of Barrington Street	11,733	N/A
■ North of Yangebup Road	7,572	70
■ South of Yangebup Road	5,109	77

These characteristics are within the bounds of expectations for the classification of Rockingham Road. Rockingham Road provides an important link to major shopping and commercial centres for people within the region. Consequently, it is considered that Rockingham Road is performing its intended function in the road network and no measures should be taken to disrupt this function.

It is to be expected that there would be a volume of through traffic using Rockingham Road, but this is considered tolerable. The completion of the Cockburn Road deviation and Roe Highway will contribute to the reduction of through traffic in Rockingham Road in the future.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

16. COMMUNITY SERVICES DIVISION ISSUES

16.1 (OCM1_3_2000) - APPOINTMENT OF DELEGATE - CO-ASSIST (INC.) (8700) (RA)

RECOMMENDATION

That Council appoint the Cockburn Financial Counsellor as a Delegate

to the Co-Assist (Inc.) Management Committee.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Council at its meeting of the 20th January 1992, entered a Deed with Co-Assist and to act as trustee for funds raised for benevolent purposes within the City. The constitution of Co-Assist calls for a delegate from the City. The previous nominee was a Councillor.

Submission

Co-Assist (Inc.) have written to Council seeking a delegate for the designated position on the Management Committee.

Report

Co-Assist primarily receive funds from the Commonwealth Government for Emergency Relief which is distributed to those in need through the Financial Counsellors (s) and Social Workers (2) who work within the City and employed by the City of Cockburn. Co-Assist is a separate legal entity with membership drawn from interested community members. Council's Financial Counsellor, Carl Bennett attends the meeting of Co-Assist and it is proposed that this arrangement be formalised with him becoming Council's delegate.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

16.2 (OCM1_3_2000) - POLICY - COMMUNITY ACCESS TO COUNCIL BUSES & PEOPLE MOVERS (12 SEATER AND ABOVE) (8850) (JG) (ATTACH)

RECOMMENDATION

That Council:-

- (1) adopts the attached Policy A2.11 - Community Access to Council Buses & People Movers (12 Seater and Above) as per the attachment to the Agenda;
- (2) delegate authority to administer the Policy to the Chief Executive Officer; and
- (3) adopts the Schedule of Fees for Hire of the Bus as provided in the report.

COUNCIL DECISION

Background

At the December 1998 meeting Council resolved to place on its 1999/2000 budget for consideration the sum of \$21,000 for the purchase of a new 22 seater bus subject to the balance of funds required being obtained from the Department of Health and Family Services and the Lotteries Commission.

At that time the City of Cockburn applied for additional funds from the Lotteries Commission of WA. This submission has been received by the Lotteries Commission which have requested the City of Cockburn to adopt a formal policy regarding community use of this vehicle.

Submission

N/A

Report

The Lotteries Commission has requested that staff forward a Council policy on community access to the bus. They have given in principle approval pending the receipt of the policy.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Budget

Purchase price for a 22 seater Nissan Bus airconditioned without sales tax.	<u>\$70,000</u>
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Income

Health & Family Services Grant	\$21,000.00
Lotteries Grant**	\$28,000.00
Council Contribution	<u>\$21,000.00</u>
	<u>\$70,000.00</u>

** Lotteries have stated that their approval is conditional on the City of Cockburn developing a community use policy.

The fee for hire will be set at such a rate as to ensure all operating and replacement costs are met.

Bonds:	½ day (6 hrs or less)	\$50
	Full day	\$100
	2 days of more	\$150
Hire Charges:	½ day (6 hrs or less)	\$30
	Full day	\$60

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

Nil

16.3 (OCM1_3_2000) - CONTRACT OF SALE FOR PROPOSED LOT 21 PROGRESS DRIVE, BIBRA LAKE - WA CROATIAN ASSOCIATION (INC.) AND CITY OF COCKBURN - REQUEST FOR VARIATION TO SUBDIVISION CLEARANCE COMPLIANCE DATE (1100231) (LJCD)

RECOMMENDATION
 That :-

(1) Council acknowledge that it has a right to bring the Contract of Sale to an end but after considering the circumstances surrounding the delay in complying with the terms of Clause 2.3 of the Contract of Sale, Council offer to the WACA to extend the

date of 31 March 2000 as shown in Clause 2.3 of the Contract of Sale to 31 August 2000; and

- (2) the necessary variation to the Contract of Sale be implemented by an exchange of letters between the parties prior to 31 March 2000.

COUNCIL DECISION

Background

On 13 July 1999, Council adopted the following resolution:

“... that Council:

- (1) *re-affirm the decisions of the 3 June 1998, 3 August 1998 and 17 September 1998 regarding the sale of proposed Lot 21 Progress Drive, Bibra Lake and the leasing of proposed Lot 22 Progress Drive, Bibra Lake to the WA Croatian Association Inc.);*
- (2) *include in the Contract of Sale:*
 - (i) *a clause which unequivocally states that if there is a shortfall in funding to cover any increase in costs the WA Croatian Association (Inc.) shall pay its share on demand;*
 - (ii) *a clause which states if there is an increase in costs which is Council’s responsibility under the sharing arrangement and if the increase in costs cannot be covered by the contingency allocation any increase over that contingency amount shall be paid by the WA Croatian Association (Inc.) on demand;*
- (3) *advise the WA Croatian Association (Inc.) that although the decisions of 3 June 1998, 3 August 1998 and 17 September 1998 have been re-affirmed the Association shall within sixty (60) days of the receipt of the Contract of Sale sign the Contract of Sale and pay to Council the sum of \$125,563.00 being the Association’s share of the works contributions to clear the subdivision of Lot 14 Progress Drive, Bibra Lake; and*
- (4) *failure by the Association to comply with these requirements shall terminate this arrangement forthwith.”*

The WA Croatian Association Inc. paid the sum of \$125,563.00 on 23 September 1999 and therefore, complied with the foregoing decision of Council.

Work commenced immediately to satisfy the subdivision conditions.

Submission

That the subdivision clearance compliance date be varied as recommended.

Report

A meeting was arranged with the Water Corporation, to discuss the provision of the sewer line. The outcome of the meeting was that the provision of a private sewer on Lot 14, was a non-event and this had come about due to the "Coolbellup Infill Program." Water Corp. is to construct a sewer line along Gwilliam Road and then along Progress Drive, to link up with the main sewer line at Bibra Drive. Two options were discussed in relation to providing a sewer connection to Lot 14 Progress Drive.

Option A is that a pump station is constructed on the car park (a crown reserve vested in Council) at the corner of Gwilliam Road and Progress Drive, which abuts Adventure World. The sewerage from the Lot 14 development would have to be pumped up to the pumping station on the car park and the cost of constructing this sewer and the provision of a pumping station, would be the responsibility of the project. The same arrangement would apply to the disposal of the sewerage from Adventure World. The Water Corp. was informed that Officers of Council did not view the positioning of the pump station on the car park, as being acceptable. This information was also conveyed to the consulting engineers engaged by the Water Corporation.

Option B is that a pump station be constructed on Lot 14 and then the development on Lot 14 could be serviced by a gravity line feeding back to the pump station. This is the preferred option, as there are cost benefits to the project. However, if Option B were to proceed, the DEP would have to determine if Option B substantially changes the Consultative Environmental Review. If it were deemed that Option B substantially changed the Consultative Environmental Review, then the consultative process would be initiated again to deal with the change.

Also, if Option B were to proceed, then allowance must be made in the design of the pump station to ensure that any overflow from the pump station is directed into the nutrient management basin. Furthermore, if Option B is taken, the view of the Water Corporation was that the clearance in relation to the subdivision condition regarding the sewerage connection, could be secured by a Caveat being registered over Lot 21 and possibly a bond being paid in respect to the gravity

line. The Water Corporation was to advise what Option was to be taken up.

Early in December 1999, Mr Barry Smith of GHD, a consulting engineering firm engaged by the Water Corporation, requested a meeting to discuss the sewerage line issue. During a meeting with Barry Smith and John Bond of the Water Corporation, a proposal was put forward for a gravity sewerage line to be constructed along Gwilliam Road and Progress Drive. However, because there was insufficient ground cover, the concept was that portion of the sewer line would be located on top of the ground and protected by an earth bund. It was intimated that Council would consider any Option but there was a need to provide further information. The information received regarding the gravity line, revealed that the earth bund to protect the sewer line would be 700mm high and 7 metres wide. Council's Engineering Department was consulted and the proposal was rejected.

The latest concept which is being considered, is that Progress Drive be raised by a sufficient distance to allow the sewerage pipe to be layed within the road reserve. The Water Corporation has intimated that they Corporation would expect Council to contribute towards the costs of raising Progress Drive. No proposal has yet been submitted to Council.

A discussion with an officer of the Infrastructure Development Branch of the Water Corporation, indicated that GHD are carrying out a cost analysis comparing the costs of operating a future pumping station in comparison to the raising of Progress Drive and laying a gravity sewer line. A decision on the method of constructing the sewer is not expected before 31 May 2000.

Under the terms of the Contract of Sale, if the clearances etc for the subdivision are not secured by 31 March 2000, Council may bring the contract to an end by refunding to the Association, the balance of monies held by Council.

The Water Corporation is prepared to clear the subdivision to satisfy the clearance compliance date mentioned in the Contract of Sale, if a bank guarantee is provided to the value of \$120,000 to bond the private sewer if the public sewer does not eventuate. That is, if the public sewer does not proceed, then the Corporation has funds to build the private sewer.

The annual service costs of the bank guarantee is around \$3,000 per year and since the public sewer line is not expected to be constructed for at least two years, the project will incur an additional cost of \$6,000. Also, there is a non-refundable administration fee of \$1,500 in relation to the bank guarantee. The cost of the bank guarantee and the administration fee would be the responsibility of the WA Croatian Association Inc. as it is not a budgeted expense for Council.

The requirement of the bank guarantee to bond the sewer, was not an issue when the Business Plan was prepared. It can be argued that the cost of the bank guarantee and the administration fee would have a minimal impact on the Business Plan. The servicing costs of the bank guarantee and the administration fee are not substantial and therefore, it can be argued that the Business Plan will not be substantially altered if the bank guarantee is taken up to clear this condition of subdivision.

It is considered appropriate that Council does not at this stage, implement the terms of the Contract of Sale and bring the dealing to a close.

It is also considered that rather than implementing the bank guarantee to secure clearances, the time frame of obtaining the clearance be extended to allow the Water Corporation to conclude its position on the type of sewer to be provided ie: either the construction of a gravity sewer line or the construction of a pumping station. The position may be that if a gravity main is not to be provided, that Council will need to proceed with the private sewer line as the cheapest option.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

If Council is able to connect into a gravity sewer, then savings of some \$66,000 to Council and \$34,000 to the Association are likely to result.

If it is not possible to meet the time frame as outlined, the GST is likely to apply.

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

Nil

16.4 (OCM1_3_2000) - TRANSFER OF SPONSORSHIP FOR MELVILLE BASED HOME AND COMMUNITY CARE (HACC) PROJECTS (8418) (JG) (ATTACH)

RECOMMENDATION

That Council:

- (1) relinquish its sponsorship of Melville Community Care & Melville Centre Based Respite (HACC) services to Melville Cares (Inc);
- (2) transfer to Melville Cares (Inc), those assets associated with the

provision of these services and purchased with grant funds and alter Council assets register accordingly; and

- (3) transfer funds from the Employee Entitlement Reserve to Melville Cares (Inc), for those staff employed in the transferred services.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

The City of Cockburn currently sponsors two Home and Community Care (HACC) services operating within the Melville City area. For some time, there has been discussion regarding the appropriateness of the current management arrangements.

Submission

N/A

Report

The City of Cockburn has negotiated with Melville Cares for the transfer of the Melville based HACC services. These discussions have been initiated as it has become clear, that the current management arrangements are ineffective for the following reasons:

- The isolation of the two services from the service and team networks within the Cockburn municipality.
- Difficulties in line management participation in Melville based service and coordination forums.
- Lack of connection to Melville planning and service identification processes.
- Costs associated with sponsoring these services borne by Cockburn, not Melville ratepayers.

It is anticipated that this transfer will be finalised to coincide with the start of the next financial year, to allow for a simpler administrative transfer and ensure that the next service level agreement between both the City of Cockburn and Melville Cares (Inc), will contain the changes in sponsor.

Staff working within this service has also indicated a desire to become better connected to Melville service networks. Discussions between the City of Cockburn and Melville Cares (Inc) have also addressed current staff conditions and these will be carried over to the new sponsor.

Staff from the City of Cockburn have also indicated our intention to find an alternative local sponsor for these services as part of the longer-term plan for the development of these services. The Health Department has requested that the City of Cockburn investigate options and present to them for approval.

The Director of Finance has also written to Melville Cares, indicating the in principal agreement to the transfer of the following assets:

1. Transfer by the 31st July, all long service leave and annual leave entitlements for all permanent and permanent part time staff employed within the two services.
2. Agree to the transfer of equipment and furnishings currently used within the June Barton Centre by the projects currently sponsored by the City of Cockburn.
3. Agree to the transfer of the two fleet vehicles (291A & 298A) currently used by the services
4. Transfer a sum not in excess of \$7,500 from the capital vehicle replacement reserve held by the City of Cockburn.

Staff from the Health Department of WA have indicated their in principle support for the sponsorship change, as long as both agency's management have agreed to the transfer. Once the Council has approved the transfer, formal meetings will be held between the City of Cockburn and Melville Cares (Inc) to finalise arrangements.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Saving of \$24,000 in the 2000-2001 and subsequent budgets of sponsorship costs associated with the transfer.

Transfer of grant funded assets to the new sponsor as well as \$7,500 held in trust for capital replacement. This transfer will also result in further savings in subsequent budgets for EBA, administrative and supervisory costs.

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

Nil

17. EXECUTIVE DIVISION ISSUES

Nil

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**20. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING****21. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE****22. CONFIDENTIAL BUSINESS**

Nil

23. RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)

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

- (a) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the

State or any other body or person, whether public or private;
and

- (c) managed efficiently and effectively.

24. CLOSURE OF MEETING