

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 9 APRIL 2009 AT 7:00 PM

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 9 APRIL 2009 AT 7:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Mr K Allen	-	Deputy Mayor
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Ms L Smith	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mrs J Baker	-	Councillor
Mrs S Limbert	-	Councillor
Mrs V Oliver	-	Councillor

##### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Ms M. Waerea	-	Executive Assistant
Ms T. Truscott	-	Media Liaison Officer

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.03pm and acknowledged the presence of former Mayor Mr Ray Lees (JP), Freeman of the City of Cockburn. He then made the following statement:

“For regular visitors to Council Meetings you will notice some minor changes to the layout of the Council Chamber and other matters may become more evident as we move further through the meeting. These changes have resulted from discussions that Elected Members and the CEO have recently had.

In relation to Public Question Time, as I have previously mentioned, I intend to provide an opportunity for ratepayers, residents and others who may wish to invest in Cockburn’s future to ask questions during Public Question Time with the intention of providing a fair, equal and reasonable opportunity for those



ratepayers to have those matters addressed. In having said that, I also would like to bring to your attention the Council's Customer Request system.

This is an online process whereby people can lodge questions at anytime and you do not necessarily have to wait until the Council Meeting to do so. You may submit your question prior to this, by registering your online Customer Request.

The final item is to do with Mayoral Activities. I have placed on the noticeboard outside, a list of Mayoral Activities that I have participated in since 6<sup>th</sup> March. This will be a regular feature at future Council Meetings to inform you of what your Mayor has been doing in the previous month in relation to Council.

Also placed on the noticeboard, is advice of the questions on the agenda which will be moved En Bloc at the meeting, unless an Elected Member requests to withdraw an item for discussion".

**2. APPOINTMENT OF PRESIDING MEMBER (If required)**

Nil.

**3. DISCLAIMER (To be read aloud by Presiding Member)**

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

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

**5 (OCM 9/4/2009) - APOLOGIES AND LEAVE OF ABSENCE**

Nil.

**6 (OCM 9/4/2009) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.



## 7. PUBLIC QUESTION TIME

### ITEMS ON THE AGENDA

#### **Dr Katinka Ruthrof, Beeliar**

*Agenda Item 13.2 – Minutes of the Delegated Authorities Policies and Position Statements Committee Meeting – 19 March 2009 (Specifically relating to – Item 10.23, Rural Subdivision Policy APD7, Minute #317)*

Q1. Is the Council aware that the new APD7 will result in a potential increase of 30% of residents in the area, and hence associated environmental impacts such as the destruction of significant bushland, (many of these are actually Land for Wildlife containing Priority Flora), fauna habitat loss (we have Priority Fauna on these properties as well), more ground water use (given that people will still want garden bores even if they have reticulated water) and degrading effects on Thomsons Lake. The FRIARS report clearly states that the properties west of Thomsons Lake should not be subdivided, as they are a buffer zone, irrespective of whether they are in the EPP Buffer zone or not

I would like to request that Planners to talk about page 39 and 40 of the FRIARS Report.

A.1 The new Policy, APD7, would permit 1.0ha lot sizes (for land outside of the EPP Buffer) which is consistent with the prevailing lot sizes in the area, and therefore would not change the character of the area. Furthermore, there are currently only three lots (outside of the EPP Buffer) which are greater than 2.0ha and have the potential to be subdivided into two lots and as such the impact is negligible.

Whilst it may be anticipated that some landowners might try to purchase some land from their next door neighbours to make up to 2.0ha, the successful rate of this kind of purchasing negotiation is extremely low in reality for various reasons. Notwithstanding this, the bottom line is that the minimum lot size of 1.0ha for land outside of the EPP Buffer is in keeping with the character of the area given that the current prevailing lot size is 1.0ha already.

The FRIARS' study actually recommends that further subdivision for residential purposes within the Rural zones of the EPP Buffer should be prevented. However, it does not refer to rural land outside of the EPP Buffer.

Extract read from the FRIARS report *"It is important that no further subdivision of these properties is permitted in order to prevent additional residential development within the buffer"*.

Rural land subdivision outside of the Buffer can be supported and the introduction of a minimum lot size of 1.0ha is consistent with the



Western Australian Planning Commission's policies.

It should also be noted that the new Policy, APD7, requires a Building Envelope on each subdivided lot which will offer the opportunity to ensure the bushland is protected from clearing. This is an improvement from the current situation where there are no building envelopes provided on these rural lots, which could lead to potential bushland clearing. The new APD7 also requires reticulated water service to be provided to each subdivided lot; hence this will reduce the level of ground water use.

**Mrs Sandra Cooling, Munster**

*Agenda Item 13.2 – Minutes of the Delegated Authorities Policies and Position Statements Committee Meeting – 19 March 2009*

Q1. Is Council aware that much of the rural land south of Russell Road in Area 1, has been used predominantly for market gardening and does not have the heavy wooded native bushland which is present on the land adjoining the western edge of Thomsons Lake?

A1. Investigations by Council Officers have indicated that approximately 50% of the lots in the area south of Russell Road in Area 1 still have areas of native bushland. They have not all been cleared.

Q2. Is Council aware that some of the bush blocks on the western side of Thomsons Lake in Area 1 have been given the "Land for Wildlife" Plaques by the Department of Environment and Conservation to display?

The bushland blocks are firstly visited by a representative from the Western Wildlife through the Western Wildlife program. Once assessed the plaque is issued in recognition of landholders doing their best to ensue the survival of native flora and fauna on their property.

A2. Yes Council is aware of receiving "Land for Wildlife" plaques from the Department of Environment and Conservation. Council also acknowledges that some rural landowners in this area have been assisted to conserve flora and fauna through the Councils Landowner Biodiversity Grants Scheme. The requirement of a Building Envelope proposed in the new policy, APD7, is also aimed to provide a statutory planning framework in order to assist the conservation of native flora and fauna on these rural lots.

**Jacky Hill, Munster**

*Agenda Item 13.2 – Minutes of the Delegated Authorities Policies and Position Statements Committee Meeting – 19 March 2009*

*(Reference provided to Council: Fremantle – Rockingham Industrial Area*



*Regional Strategy, Thomsons Lake Rural Area. Pages 39 & 40 of WAPC Final Report.)*

Q1. Are all Councillors and City Planners aware of the Western Australian Planning Commissions ruling that, Quote FRIARS report: *“Rural uses on the western side of Thomsons Lake will be retained and that it is important that no further subdivision of these properties is permitted”?*

A1. The Fremantle Rockingham Industrial Area Regional Strategy (FRIARS) report clearly differentiates between land within the EPP Buffer as not being suitable for further subdivision.

This is addressed in the Officer’s recommendation, contained within the Schedule of Submissions (Submission 140, dot point 3) which reads as follows:

The FRAIRS report recommends that further subdivision for residential purposes within the Rural zones of the EPP Buffer should be prevented. However, it does not refer to the rural land outside of the EPP Buffer.”

Quote FRIARS report *“It is important that no further subdivision of these properties is permitted in order to prevent additional residential development within the buffer”.*

The buffer is clearly identified as being the “Kwinana Air Quality Buffer. Limited rural land subdivision outside of the Buffer can be supported and the introduction of a minimum lot size of 1ha is consistent with the Western Australian Planning Commission’s policies. It is in keeping with the prevailing lot size in the area and will not change the character of the area.

Q2 Is Council aware that these bushland blocks on the western side of Thomsons Lake have a huge diversity of native bush including very large old Tuart trees and that the area supports huge population of native ground dwellers and birdlife? Any subdivision will result in the clearing of trees for a home, sheds, firebreaks, water tanks, septic tanks, driveway etc and will most certainly impact on the character of the area.

A2. Yes Council is aware of the degree of native bush within the rural lots on the western side of Thomsons Lake. The new policy, APD7, will require building envelopes to be identified on each subdivided lot, which will ensure that any significant bushland is protected from clearing. This is a significant improvement over the current situation where there are no building envelopes and no restrictions in relation to the potential clearing of native bush on those lots. Buildings, sheds, firebreaks, water tanks, septic tanks, driveways etc will all be located within the Building Envelope so they do not impact on existing





bushland. The new policy would also require a reticulated water service to be provided to each subdivided lot; hence diminishing the need for rainwater tanks and reducing the level ground water use in those areas.

These requirements of the new policy, APD7, will provide the Council with better statutory planning control over these rural lots than currently exist, in order to protect the natural environment and the character of the area.

**Mrs Robyn O'Brien, Munster**

*Agenda Item 13.2 – Minutes of the Delegated Authorities Policies and Position Statements Committee Meeting – 19 March 2009*

Q1. I would like to request that Council not approve tonight the minutes of the Delegated Authorities Policies and Position Statements Committee on the 19/3/09. My request is because my family and hundreds of ratepayers have homes and land that are impacted by the policy changes proposed in the huge number of amended policy suggestions that are being presented tonight. The questions I have are too numerous to ask tonight but I ask to be given an opportunity to ask these in writing or a meeting with staff especially on items 10.7, 10.8, 10.12, 10.13, 10.15, 10.17, 10.20, 10.22, 10.23, 10.24, 11.2, 11.5, 11.6, 14.1, liveable neighbourhood edition 4 - wetlands, APD50 deleted, APD12, APD10. I did not know the content of this item and have not been able to read the attachments unless I go to Council which I cannot as I work. They are not on the agenda web page as the agenda items are. The minutes attachments are not attached to the agenda.

A.1 Council Officers are prepared to answer any questions that a ratepayer may have, whether they be provided in writing or be provided at a meeting. Ratepayers may make an appointment with an Officer and you will be provided with a response by Council. The agenda for the Delegated Authorities Policies and Position Statements (DAPPS) Committee, including all of the attachments, were made available on Council's website and at the libraries prior to the Committee Meeting. The minutes of the DAPPS Committee meeting, including the attachments, were also made available on Council's website and at the libraries, prior to tonight's Council meeting.

*Agenda Item 13.3 – Agenda Briefing Sessions*

Q1. Is the CEO Stephen Cain the Presiding member at the Briefing Meetings?

A1. Yes the CEO does preside at the Briefing Sessions.

Q2. If yes, will the Councillors tonight vote on my request for the Presiding



Member to be the Mayor, Logan Howlett? I ask this because the Local Govt Act says all public meetings of Council have a Presiding Member and as the normal Council meetings are run by the Mayor, I believe it is of benefit for the Council, Staff and Ratepayers to have the same person experienced in motions and procedures and a senior member of Council running the meetings.

- A2. The Local Government Act, 1995, does not prescribe procedures for any "public meetings" arranged by Council, other than formal meetings of Council, Committees of Council and Electors Meetings. In any case, item 13.3 is subject to an alternative motion and will be debated at tonight's Meeting.
- Q3. What does the Officer's Report mean "maintaining the current methodology?" Does this include procedures at the meeting other than who presides?
- A3. It means maintaining the exact same procedures as are currently in place for the Agenda Briefing Sessions, which involves the presentation of items to be considered by Council at the following week's meeting.
- Q4. My intent of my motion at the Annual Electors meeting was to have all Council business conducted in open public forums as per Council's Policy of Governance Excellence. Will Councillors please support my request to have public question/statement time for a minimum of 30 minutes at the end of the Briefing Meeting, as the public may have questions that elect information from officers or provide information not previously available to officers about the item that the elected members may find helpful in making their decision on the issue before voting the following week?
- A4. This information may be considered by members during debate on the item this evening.
- Q5. The intent of my motion in February was to change the policy formally through a vote of Council, not keep the current policy and from the officer's recommendation, just trial for 6 months opening only for the public to listen with no question time or agendas for briefing meetings being formalised in a policy change to be made available to the public and Elected Members one week prior to the Briefing Meeting was not the intent of my motion. Although this will mean for the first time this is done, any applicant will have one week less to put their issues in to Council, for all the Briefing Meetings after that, the dates will have been set and they will have the same 4 weeks before the next briefing meeting, it will only make it 3 weeks for any item carried over from one month to the next month. Will Councillors vote for an alternative motion or amend the recommendation by staff to change the policy on Briefing Meetings completely tonight including any of these:



- (1) No trial but a formal change of policy.
- (2) Public question/statement time at the end of the meeting
- (3) The Mayor to be the Presiding member, not the CEO
- (4) The agenda of the briefing meeting be made available to the public and the elected members one week prior to the Briefing Meeting
- (5) Briefing Meetings to be advertised on the web, in the Soundings, and local paper as normal meetings are?

A.5. This information may be considered by members during debate on the item this evening.

**Mary Jenkins, Spearwood**

Q1. Regarding advertising in the local papers. I did not receive the community newspaper this week and a lot of people are not receiving them. Will Council consider giving some of this information to local community groups if it is relevant to the local area so that they can then discuss it.

A.1 Council will take these comments into consideration.

ITEMS NOT ON THE AGENDA

**Dee Matrenza, Hammond Park submitted a question, however, was not present at the meeting. The response will be provided in writing.**

Q1. Is there any news as to when we can expect construction of shops at the corner Russell Rd & Macquarie Blvd? Also has it passed for the hotel to go ahead?

A.1 The owner is currently finalising the detailed drawing for the shopping centre and expects to lodge a Building Licence application by the end of May, 2009. It is anticipated that construction of the shops would commence in July, 2009. In respect to the tavern the owner advises that the advertising for the Liquor Licence has closed, with no objections being received. They expect that the Department of Racing, Gaming and Liquor will make a determination on the licence within the next two months and should a licence be granted then construction will probably commence in August, 2009.

**Dot Hopkins, Coogee**

Q1. Would Council please give ratepayers assurance that in no way will the toxic waste at Port Coogee be pumped up to the Coogee Rotary Lookout? There are residents in the area with ground bore water that may become contaminated. Will Council please assure ratepayers that Australand deal with their own problem? There are residents that have had no problem to date with so called contaminates from the past market garden activities with bore water.



- A.1 The terminology used by Mrs Hopkins is a little provocative and does not necessarily reflect the facts of the reported contamination identified by the DEC. Council is happy to discuss that issue with Mrs Hopkins at a later date. Groundwater monitoring will be an integral part of the groundwater interception system that may be used to irrigate the regional open space. There is no incidence of contamination in this groundwater and the City can assure its residents that any water used as part of its irrigation of open space areas will be regularly monitored and fit for purpose.

When the allegations first surfaced of the contamination of groundwater. One of the things that Council initiated was a check of all the City's 18 bores that surround the Australand allotment from those in Manning Park to the North down to Beale Park and a variety of others in between. Those tests were done for contamination in all of them and Council can report that there is not a single bore that had extracted any contaminated water in that area. The material that is alleged to have been drawn out on the Australand site is also subject to review because it appears that the DEC may not have sampled the waters contained in interception drain that relied on previous bore samples that were undertaken prior to the remediation of the soil on the site. As part of the Australand development all of the contaminated soil that was contained on the development was removed and that land has now been certified as clean.

**Mrs Robyn O'Brien, Munster**

- Q1. Today a member of staff mentioned to me that the Agenda which is usually provided for the public at the meeting, will no longer be present. Is this the case and if so is it going to be starting next month? Can anyone clarify that for me please?

- A1. It is still Council's intention to continue to provide hardcopies of the Agenda's at all public Council Meetings. Council will also be providing a summary of the meeting showing which items will be withdrawn and those that haven't. There is certainly no intention not to provide an agenda, however there is an intention in future, that when we have a particular topical item on the agenda, we will provide additional copies of that particular item on the night.

**Mrs Robyn Scherr, Coogee**

- Q1. My question pertains to sponsorship. As Councillor's would be aware, Australand the Port Coogee developer has quite significant changes to its structure plan coming before Council in the near future. In recent times we have seen them proudly proclaiming Australand's Jetty to Jetty Swim at Coogee Beach; they also sponsor the Coogee Beach Party. This year not only were they sponsoring with their banners everywhere including on the beach, but they also had a marquee right alongside the City of Cockburn's. My question being, is there anything



improper in this? We have lost a Mayor. An Australand representative also boasted quite proudly at the CCC hearings that his company could give money to anyone, anywhere. That may be true, but an officer must declare whether they have received money or gifts from a corporation or a person with interests in the City of Cockburn and if they fail to do so there are serious consequences. I am asking this generally, because I felt very uncomfortable about the sponsorship and I know as a member of the Coogee Coastal Action Coalition (CCAC) that the ex-Mayor Stephen Lee went out of his way to make sure that the CCAC could not be represented at the then Coogee Beach Festival and yet there I saw Australand with a tent right alongside the City of Cockburn. I ask the Councillor's and the Officer's what their opinion is.

- A1. The City and its Officer's and Councillors are required by virtue of the Act to record any gift they receive. We retain a Gift Register for gifts that may be received during the course of a normal year and a separate Gift Register for all donations that may be received during the time of an election process. That secondary Gift Register is sealed at the end of an election period and placed in a safe for posterity.

With regards to sponsorship, the City has a number of events it runs in the course of its year which receive sponsorship. For example Cockburn Gateway Shopping Centre provides sponsorship for the City's Sustainability Awards in the form of \$12,000.00 worth of vouchers and the City is quite happy to pass these onto the ratepayers.

The sponsorship received from Australand towards events offsets the costs of running such events as the Jetty to Jetty Swim and the Coogee Beach Festival. All of the donations are recorded in the City's records. There is nothing improper about that process and many Local Governments receive funds specifically towards sponsorship. Fremantle for example also receive sponsorship from Corporate entities. It is normal practice, when you receive such sponsorship to record the sponsor some degree of recognition so we allow the presentation of banners and the erection of a tent, however we do not permit them to distribute sales material or the like.

The City's promotions and communications team liaise directly with the sponsor Company's promotions/sponsorship staff. The City's planning department do not provide input in these business dealings, nor do the sponsor Company's planners. There is therefore no cross dealings or improper conduct.



**8. CONFIRMATION OF MINUTES**

**8.1 (MINUTE NO 3923) (OCM 9/4/2009) - ORDINARY COUNCIL MEETING - 12/03/2009**

**RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Thursday, 12 March 2009, be adopted as a true and accurate record.

**COUNCIL DECISION**

MOVED Deputy Mayor K Allen SECONDED Cllr S Limbert that the recommendation be adopted.

**CARRIED 10/0**

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

Nil

**10. DEPUTATIONS AND PETITIONS**

Deputations

The Presiding Member invited the deputation from Mary Jenkins on behalf of Concerned Citizens for Good Governance, in regard to the democratic rights of residents to attend briefing sessions. A copy of the deputation was provided, and had been signed by 14 residents. Exact wording follows:

*"This concerns item 13.3 on the agenda. The reason for this deputation is to ensure the democratic rights of residents to attend briefing sessions. The Chair of the meeting where Elected Council Members are present should be the Mayor Logan Howlett. If he is not there then the Chair should follow to the Deputy Mayor. The meeting should at all times be controlled by Elected Members. Residents have a democratic right to know if their Elected Members vote in the best interest of residents at the next Council General Meeting. They also have a democratic right to ask a question to clarify any confusion in the briefing discussion. Residents appeal to Council to acknowledge these issues for the sake of Good Governance in Cockburn".*

Petitions

The Presiding Member accepted a petition from Mary Jenkins on behalf of Concerned Citizens for Good Governance, in regard to the democratic rights of residents to attend briefing sessions. A copy of the petition was provided, and had been signed by 25 residents.



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

Nil

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

Nil

**13 (OCM 9/4/2009) - COUNCIL MATTERS**

**NOTE:** AT THIS POINT IN THE MEETING, THE TIME BEING 7.52 PM, THE FOLLOWING ITEMS WERE CARRIED BY AN "EN BLOC" RESOLUTION OF COUNCIL:

13.1	14.1	15.1	16.1	17.1
	14.2	15.2		
	14.3			
	14.4			
	14.5			

**13.1 (MINUTE NO 3924) (OCM 9/4/2009) - MINUTES OF THE AUDIT COMMITTEE MEETING - 19 MARCH 2009 (5017) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Audit Committee Meeting held on 19 March 2008, as attached to the Agenda and the recommendation contained therein be adopted.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**

A meeting of the Audit Committee was conducted on 19 March 2009.



**Submission**

To receive the Minutes of the Audit Committee and adopt its recommendation.

**Report**

The Committee received the initial report from Stamfords on items that had been actioned as a result of the findings from the first year Audit Program.

The Audit Committee also received the draft copy of the Year 2 and 3 Internal Audit Program to be carried out by the City's appointed internal auditors, Stamfords. The ranking will be the priority risk rating assigned to each item contained in the schedule. The work will be undertaken over 2009 and 2010.

**Strategic Plan/Policy Implications**

**Governance Excellence**

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

**Budget/Financial Implications**

As contained in the Minutes.

**Legal Implications**

As contained in the Minutes.

**Community Consultation**

N/A

**Attachment(s)**

Minutes of the Audit Committee Meeting held on 19 March 2009.

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

N/A

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

Nil.





**13.2 (MINUTE NO 3925) (OCM 9/4/2009) - MINUTES OF THE DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING - 19 MARCH 2009 (1054) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting held on 19 March 2009, as attached to the Agenda and adopts the recommendations contained therein.

**COUNCIL DECISION**

MOVED Cllr C Reeve-Fowkes SECONDED Deputy Mayor K Allen that the recommendation be adopted with the exception of Item 10.23 - Proposed amendments to Policy APD7 'Rural Subdivision' which is to be withdrawn and considered separately.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0**

**Reason for Decision**

Requiring the referral of all applications to amalgamate and re-subdivide lots within Area 1 would enable Council to consider the issue, on an application by application basis, whether that proposal would adversely affect the character of the area.

**(MINUTE NO 3926) (OCM 9/4/2009) - (MINUTE NO 317) (DAP&PS 19/3/2009) PROPOSED AMENDMENTS TO POLICY APD7 'RURAL SUBDIVISION' (9332) (R DONG) (ATTACH)**

**COUNCIL DECISION**

MOVED Cllr C Reeve-Fowkes SECONDED Cllr J Baker the recommendation be adopted with the addition of the following sub-recommendation:

"In respect to Policy APD7 'Rural Subdivision', any applications for amalgamation/subdivision of land within Area 1 be referred to Council for formal consideration".

**MOTION LOST 3/7**

MOVED Cllr H Attrill SECONDED Cllr I Whitfield that Item 10.23 of the Delegated Authorities, Policies and Position Statements Committee Meeting held on 19 March 2009 - Proposed Amendments to Policy APD7 'Rural Subdivision', be referred back to the next committee meeting for review.

**CARRIED 10/0**



### **Reason for Decision**

To allow Councillors sufficient time to investigate further the details contained within this report.

### **Background**

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 19 March 2009. The Minutes of the meeting are required to be presented to Council and its recommendations considered by Council.

### **Submission**

The Minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.

### **Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council. Any Elected Member may withdraw any item from the Committee

meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

As contained in the Minutes.

### **Legal Implications**

Section 5.42 of the Local Government Act requires an absolute majority for delegates of powers to the Chief Executive Officer or his appointees.

### **Community Consultation**

As contained in the Minutes.



**Attachment(s)**

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 19 March 2009.

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

N/A

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

Nil.

**13.3 (MINUTE NO 3927) (OCM 9/4/2009) - AGENDA BRIEFING SESSIONS (1713) (D GREEN)**

**RECOMMENDATION**

That Council trials open Agenda Briefing Sessions for the period May - October 2009, under similar conditions that apply to the current Forum.

**COUNCIL DECISION**

MOVED Mayor L Howlett SECONDED Cllr I Whitfield that Agenda Briefing Sessions be:

- (1) Open to the public;
- (2) That the Mayor or another Elected Member be the Presiding Member;
- (3) That up to 30 minutes be allocated at the conclusion of the Agenda Briefing Session to the Elected Members segment in order to allow the public to ask questions or to make statements on any matter on the Agenda;
- (4) Confidential matters to be 'briefed' behind closed doors; and
- (5) Suitable protocols to be drawn up for the Public Agenda Briefing Sessions to reflect Points 1 to 4 above, particularly with regard to providing the Agenda to Elected Members and for public availability in advance of the Sessions.

**MOTION LOST 2/8**



**COUNCIL DECISION**

MOVED Cllr H Attrill SECONDED Cllr S Limbert that Council trials open Agenda Briefing Sessions for the period May - October 2009, under similar conditions that apply to the current forum with the exception of:

- (1) That up to 30 minutes be allocated at the conclusion of the Agenda Briefing Session to the Elected Members segment in order to allow the public to ask questions on any matter on the Agenda, of the staff.
- (2) Confidential matters on the agenda to be 'briefed' behind closed doors.

**CARRIED 8/2**

**Reason for Decision**

The current briefing session methodology presently provides the best possible outcome for people who are making applications to the City either for Planning, Policy or other matters to be considered.

This decision does not support a proposal that delays the processing of matters which are brought before the Council. The briefing session is to provide the opportunity for questions to be raised at the time by the public.

**Background**

At the Annual General Meeting of Electors conducted on 3 February 2009, the following motion was carried:

*That Council opens to the public the Briefing Sessions held the week before Council Meetings.*

It is required that any decision passed at an Electors meeting be considered by Council.

Subsequently, at the Council meeting conducted on 12 March, 2009, the following resolution was carried:

*That Council conducts a workshop to consider whether it wishes to open its Council Meeting Agenda Briefing Sessions to the public, based on information provided in the Report.*

**Submission**

N/A



## Report

A workshop was arranged for 26 March, 2009, to further discuss this issue and was attended by the Mayor and 6 Councillors. 3 Councillors were unavailable, however, submitted their input to the process in writing prior to the workshop for consideration.

While there was a diversity of views provided by those present and submitted in writing by those not present, there was general consensus that open briefing sessions should be trialled on the following basis:

- Open to the public initially for a period of 3-6 months;
- No questions/statements from the public (on the basis that it is the first time that Elected Members have been briefed on the items being presented at the session);
- Any confidential matters to be presented behind closed doors;
- Any other suitable protocols be introduced on an ongoing basis, as considered necessary;
- No hospitality provided following the briefing sessions.

It is anticipated that a trial period of 6 months will enable the current Elected Members an opportunity to assess the effectiveness of open Agenda Briefings and recommend any adjustments to the process for a more permanent procedure to be implemented following the elections in October, 2009.

By retaining the current methodology, the briefings will remain under the operational control of the Chief Executive Officer as a mechanism of introducing Elected Members (and the public) to items which will be deliberated on at the Council Meeting one week later.

## Strategic Plan/Policy Implications

### Governance Excellence

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

### Budget/Financial Implications

N/A

### Legal Implications

There are no statutory provisions relative to local government briefing procedures.

### Community Consultation



N/A

**Attachment(s)**

N/A

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

The mover of the motion at the Annual Electors Meeting held on 3 February, 2009, has been informed that this matter will be considered at the April 9, 2009 Council Meeting.

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

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (MINUTE NO 3928) (OCM 9/4/2009) - PROPOSED AMENDMENT NO. 1166/57 - LOCATION/OWNER: VARIOUS (9116657) (A TROSLIC) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the Metropolitan Region Scheme Proposed Amendment No. 1166/57 (South West Districts Omnibus No. 8);
- (2) make a submission to the Western Australian Planning Commission as follows:
  1. For Proposal 2, recommend that the proposed 'Primary Regional Roads' reserve extent be reduced to provide a 20m portion of 'Urban' zoned land within the existing Beach Road reserve adjacent to the southeast portion of Lot 512 Cockburn Road, Coogee. This will ensure that suitable access is able to be provided/maintained for this lot (refer Attachment 1);
  2. For Proposal 3, advise that in preparing an amendment to City of Cockburn Town Planning Scheme No. 3, a building envelope will need to be designated in the southern portion of Lot 143 Warton Road due to the irregular shape and configuration of the lot;
  3. For Proposal 4, recommend that the amendment seek to rationalise the entire 'Railways' reserve land to 'Parks and Recreation' reserve, as it exists south of Port Coogee



and north of Poore Grove (refer Attachment 3);

4. For Proposal 6, recommend that the amendment proceed straight to 'Urban' in order to coincide with the adjoining land being transferred from the 'Urban Deferred' to 'Urban' zone. This adjoining land (Muriel Court Structure Plan area) is in the process of being considered by the Western Australian Planning Commission for lifting of urban deferment (refer Attachment 5);
5. Support remaining Proposals 5 and 7.

#### **COUNCIL DECISION**

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

**CARRIED 10/0**

#### **Background**

The Western Australian Planning Commission ("WAPC") has recently resolved to amend the Metropolitan Region Scheme ("MRS") in accordance with the provisions of the *Planning and Development Act 2005*. The amendment takes the form of an omnibus amendment for the South West Corridor local governments, and deals with minor zoning/reservation changes to the MRS. Six proposals are specifically relevant to the City of Cockburn.

The WAPC has recently commenced advertising of the proposed MRS amendment. Submissions are due by 1 May 2009. As a directly affected agency it is necessary that the City of Cockburn makes submission on the amendment.

#### **Report**

As mentioned above, six proposals numbered 2 to 7, are specifically relevant to the City of Cockburn, and form the consideration of this report. These are listed following, together with an explanation of their associated purpose:

*Proposal 2* - To reserve portion of Beach Road, Coogee as Primary Regional Roads reservation. (refer Attachment 1)

The proposal is to reserve approximately 1,445m<sup>2</sup> of Beach Road (abutting Cockburn Road) as Primary Regional Roads reservation in accordance with Main Roads WA regional road requirements.



*Proposal 3* - To transfer (1), (3) Lot 143 Warton Road, Banjup from the Public Purposes (SU) reservation to the Rural-Water Protection zone and removal from the Water Catchments reservation; (2) to transfer Lot 2 Warton Road and Lot 533 Jandakot Road from the Public Purposes (SU) reservation to the Public Purposes (WSD) reservation included in the Water Catchments reservation. (refer Attachment 2)

(1), (3) - This proposal rationalises Lot 143 to reflect existing cadastral boundaries (and separate ownership) as these portions of land do not form part of the abutting Public Purposes (SU) reserve; and

(2) - Lots 2 and 533 contain existing Water Corporation infrastructure and it is appropriate to include the land within the Public Purposes (WSD) reservation included in the Water Catchments reservation.

*Proposal 4* - To transfer land no longer required for Railways reservation (abutting Cockburn Road in Coogee) to the Parks and Recreation reservation. (refer Attachment 3)

This proposal seeks to rationalise the Railways reservation in accordance with existing cadastral boundaries and development, and Bush Forever Site 314. This proposal intends removing the Railways reservation (surplus to requirements) and replacing it with the Parks and Recreation reservation.

*Proposal 5* - To transfer portion of Lots 105, 106, 107 & 108 Armadale Road, Jandakot and portion of Solomon Road from the Primary Regional Roads reservation to the Industrial zone. (refer Attachment 4)

A small portion of these lots (and portion of Solomon Road) have a Primary Regional Roads reservation over them which is surplus to Main Roads WA requirements. This proposal intends removing that reservation and replacing it with the Industrial zone in accordance with existing cadastral boundaries.

*Proposal 6* - To transfer portion of Lots 133 and 134 North Lake Road, Cockburn Central from the Other Regional Roads reservation to the Urban Deferred zone. (refer Attachment 5)

A small portion of these lots have an Other Regional Roads reserve over them which is a zoning anomaly. This proposal intends removing that reservation and replacing it with the Urban Deferred zone in accordance with existing cadastral boundaries.

*Proposal 7* - To transfer (1), (3) portion of Lot 1001 from Industrial zone to the Public Purposes (SEC) reservation included in the Water Catchments reservation; (2) to transfer portion of Lots 101, 103, 104, 105, 106, 107 & 119 from Industrial zone to the Rural-Water Protection zone. (refer Attachment 6)





This proposal corrects a minor zoning anomaly by rationalising the Public Purposes (SEC) reservation (located within a Water Catchments reservation) and the Rural-Water Protection zone in accordance with existing cadastral boundaries.

### City of Cockburn's Comments

In terms of these proposals, they are all relatively minor and seek to correct zoning anomalies which currently exist under the MRS. There are however aspects associated within Proposals 2 and 4 which need to be improved so as to appropriately reflect an optimal zoning and reservation arrangement under the MRS. These comments are provided following:

For Proposal 2, it is recommended that the proposed 'Primary Regional Roads' reserve extent be reduced to provide for a 20m portion of 'Urban' zoned land within the existing Beach Road reserve adjacent to the southeast portion of Lot 512 Cockburn Road, Coogee (refer Attachment 1). As discussed with the City's Engineering Services, this will ensure that suitable access is able to be provided/maintained for this lot, and will importantly provide the opportunity for an integrated development to be provided. This is particularly important for Lot 512 which has been recently rezoned to 'Urban' under the MRS, and is in the process of being prepared for sale by the current landowner (Main Roads WA). Considering the places of local heritage significance on Lot 512, it is important that integrated development opportunities be provided to promote protection of the heritage places. This will be more easily facilitated by a modified amendment proposal which includes the 20m strip of 'Urban' zoned land.

For Proposal 4, it is recommended that the amendment seek to rationalise the entire 'Railways' reserve land to 'Parks and Recreation' reserve, as it exists south of Port Coogee and north of Poore Grove (refer Attachment 3). There is no identifiable reason to leaving the small portion of 'Railways' reserve land in this area, and given the land forms a logical component of the adjacent foreshore reserve, the entirety of it should be reserved for 'Parks and Recreation' at this juncture in time.

For Proposal 6, it is recommended that the amendment proceed straight to 'Urban' in order to coincide with the adjoining land being transferred from the 'Urban Deferred' to 'Urban' zone. This adjoining land (Muriel Court Structure Plan area) is in the process of being considered by the Western Australian Planning Commission for lifting of urban deferment (refer Attachment 5).

### Town Planning Scheme Implications

In terms of implications on City of Cockburn Town Planning Scheme No. 3 ("TPS3"), it should be noted that Proposals 3, 5, 6 and 7 will



require amendments to be undertaken to ensure consistency between the MRS and TPS3. This is by virtue of Section 124 of the *Planning*

*and Development Act 2005*. When it comes to preparing an amendment for Proposal 3, a building envelope will need to be designated in the southern portion of Lot 143 Warton Road due to the irregular shape and configuration of this lot.

It is therefore recommended that Council make a submission to the WAPC as per the content of this report.

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

#### **Demographic Planning**

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

#### **Natural Environmental Management**

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

#### **Transport Optimisation**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

Submissions are due to the WAPC by 1 May 2009. No consultation is required by the City of Cockburn. Affected landowners have also been advised by the WAPC.

### **Attachment(s)**

1. Proposal 2
2. Proposal 3
3. Proposal 4
4. Proposal 5
5. Proposal 6
6. Proposal 7



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

N/A

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

Nil.

**14.2 (MINUTE NO 3929) (OCM 9/4/2009) - PROPOSED CITY OF COCKBURN (LOCAL GOVERNMENT ACT) JETTIES, WATERWAYS AND MARINA LOCAL LAWS (1126) (P WESTON) (ATTACH)**

**RECOMMENDATION**

That Council, pursuant to the requirements of Section 3.12 of the Local Government Act 1995, advertises the Jetties, Waterways and Marina Local Laws calling for public submissions on the proposed Local Laws.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**

The development of a residential marina in South Coogee has been underway for over 10 years. Following a feasibility study including detailed design and creation of a consultation programme to progress the development, a Coogee Master Plan was created.

Consultations involved the following agencies:

- The City of Cockburn,
- The Department of Planning and Infrastructure,
- The Department of Environmental Protection and
- The Health Department of WA.

Following the feasibility study the Port Coogee Waterways Management Facilitation Agreement was created. The parties to this Agreement are the Port Catherine Developments Pty Ltd ('the developer'), the City of Cockburn ('the City') and Australand Holdings Ltd ('Australand').



Part of the general terms of the agreement was adherence to the Waterways Environmental Management Plan (WEMP) which included four areas for consideration namely:

- Remedial Works Management Program,
- Construction Management Program,
- Waterways Environmental Management Plan and
- Noise and Vibration Management Plan.

The construction of the marina environment has commenced and as a result Council needs to consider how best to regulate and manage the use of the waterways within the marina.

It was identified that a Jetties, Waterways and Marina Local Law was necessary to enforce aspects of behaviour and regulate activity and use on jetties, the waterways and in the marina itself.

In consultation with City's Solicitors a set of Jetties, Waterways and Marina Local Laws have been created including prescribed offences and penalties.

### **Submission**

To make Local Laws to establish the Jetties, Waterways and Marina Local Laws

### **Report**

In accordance with Section 3.12 of Local Government Act, 1995, it is necessary for the purpose and effect of any proposed Local Laws to be initiated in the report to be considered by Council.

As previously mentioned, the purpose of this proposed Local Law is to provide a mechanism for the regulation and control of activities within the Port Coogee Marina Waterways and associated infrastructure.

The effect of the Local Laws will be to enable the Council, through its authorised officers, to enforce compliance with standards and activities within the Marina Waterways, as designated in the Local Laws.

The Port Coogee Marina is the first to be developed within the City of Cockburn. The need to have the Jetties, Waterways and Marina Local Law and prescribed offences is an integral part of the control of behaviour of individuals on jetties, the waterways (control of movement of boats and other vessels) and the marina through the control of potential pollution, mooring of boats, the maintenance of waterway edge walls to list a few.

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

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



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

**Governance Excellence**

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

**Budget/Financial Implications**

Costs associated with the establishment of the Jetties, Waterways and Marina Local Law will be met within current budget allocations.

**Legal Implications**

Section 3.12 of The Local Government Act 1995 refers.

**Community Consultation**

Consultation has occurred with the Department for Planning and Infrastructure, the Environmental Protection Authority and the Department of Health WA.

The proposed Local Laws will be advertised in the “West Australian” newspaper inviting public submissions for a period of at least six weeks.

**Attachment(s)**

Proposed City of Cockburn Jetties, Waterways and Marina Local Law.

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

N/A

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

Nil.

- 14.3 **(MINUTE NO 3930) (OCM 9/4/2009) - APPOINTMENT OF REAL ESTATE AGENT TO MARKET AND SELL ADDITIONAL NINE COTTAGE LOTS ON DEPOSITED PLAN 61458 (STAGE 2) - SUBDIVISION OF LOT 5 CORNER TAPPER AND BARTRAM ROADS, ATWELL - OWNER: CITY OF COCKBURN (5516327) (K SIM) (ATTACH)**

**RECOMMENDATION**

That:

- (1) Council appoint Raine and Horne, Success to undertake the



- marketing and sale of Lots 106 to 114 inclusive on Deposited Plan 61458 (Stage 2), subject to selling prices being not less than those determined by Licensed Valuers (McGees);
- (2) all sales being conditional on compliance with the provisions of Section 3.58 of the *Local Government Act 1995*; and
  - (3) Council make the appointment exclusive for a period of six months from the date of appointment.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**

Council at its meeting held on 11 December 2008 resolved as follows:

- "(1) Council appoint Raine and Horne, Success to undertake the marketing and sale of residential Lots 128 to 135 inclusive and Lots 140 to 143 inclusive on Deposited Plan 61458 (Stage 2) and all un-sold residential lots on Deposited Plan 59312 (Stage 1), subject to selling prices being not less than those determined by Licensed Valuers, McGees;
- (2) all sales being conditional on compliance with the provisions of Section 3.58 of the *Local Government Act 1995*; and
  - (3) Council make the appointment exclusive for a period of 6 months from the date of appointment."

At the time the nine cottage lots were excluded due to market acceptance of this type of product in this area being low. However, due to recent State and Federal Government initiatives (via the first homeowner's grant), demand for cottage lots has grown significantly. Accordingly it is considered the right time to now offer the nine cottage lots for sale as part of the City's residential subdivision at the corner of Tapper and Bartram Roads, Atwell

**Submission**

Raine and Horne have submitted a marketing plan for the sale of the nine cottage lots. This utilises elements of the current marketing plan which Raine and Horne are using to sell other lots in the subdivision on



behalf of the City (as per Council's resolution of 11 December 2008). The selling fees remain unchanged.

## Report

Since the December Council resolution the selling agent has sold (or has under contract to sell) a total of nine lots across Stages 1 and 2. This leaves eleven lots to be sold from those identified in the December Council resolution. It is now proposed to add the nine cottage lots to this, taking the total number of lots on offer to twenty.

All of these lots represent an attractive buying option for first homeowner's, particularly given the \$14,000 and \$7,000 grants on offer from the State and Federal Governments respectively. The Federal Government grant is due to finish on 1 July 2009, so there is expected to be high demand for lots within the first homeowner price range in the coming months. The lots in question are all considered to fit within this price range.

The selling agent reports interest from potential purchases for the cottage lots. Additionally, they have received assurances from a range of building companies that they are able to place suitable houses on these cottage lots. Generally speaking, the total price for house and land packages needs to be less than \$440,000. Recent figures released by the Urban Development Institute of Australia (Western Australia) confirms this, with most lots sold in the Perth Metropolitan Area being for less than \$240,000

This places the City's lots well within the target price range of up to \$240,000. Considering a suitable home should be able to be built for around \$190,000, the target house and land package price of less than \$440,000 can be achieved. The cottage lots have areas ranging from 300 square metres to 385 square metres, and are also subject to design guidelines via a Detailed Area Plan.

Together with the 11 unsold lots, it is anticipated that all of the lots will be sold by 1 July 2009. This estimate is based on sales since the start of 2009 being approximately at the rate of one per week. The Licensed Valuer from McGees Property has prepared a valuation report that determines the market value for each lot in this proposal. It is this value that will be used in the public advertising required, pursuant to Section 3.58 of the *Local Government Act 1995*. The Licensed Valuer reports that the values determined are not only determined based on past sales of similar lots, but also reflect the opinion of developers, selling agents and others involved in the industry. The information gathered takes into consideration current government stimulation packages and the sentiment of potential purchasers given the current economic



uncertainty. It is considered prudent to allow the selling agent to list the lots at prices above but not below these prices.

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

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To develop and maintain a financially sustainable City.

### **Budget/Financial Implications**

Marketing costs are allowed for under the overall budget subject to Account No. CW 1516. In terms of income received to date, \$4,335,9110 has been generated from sales with a further \$2,841,000 under contract of sale. Total costs to date in constructing the subdivision and bringing the land to market have been \$1,876,721. Ultimate income from the entire subdivision will be approximately \$9,683,910 once all lots have been sold. Refer to attachment 3.

### **Legal Implications**

Section 3.58 of the Local Government Act 1995 refers.

### **Community Consultation**

Statewide advertising of all sales will be undertaken pursuant to Section 3.58 of the Local Government Act 1995.

### **Attachment(s)**

1. Deposited Plan
2. Valuation Report
3. Lots sold, under offer and still to be sold.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at 11 December 2008 Council Meeting

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

Nil.





**14.4 (MINUTE NO 3931) (OCM 9/4/2009) - CONSIDERATION TO ISSUE TAKING ORDER AND DEDICATION OF LAND FOR ROAD PURPOSES - LOT 402 ON DEPOSITED PLAN 59934 (6010372) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) request the owner of parent Lot 401 Armadale Road provide to the City all required certificates, supervision fees and maintenance bonds to the satisfaction of the City to ensure that the road constructed on proposed Lot 402 on Deposited Plan 59934 is to the required standard;
- (2) request the owner of parent Lot 401 to transfer proposed Lot 402 on Deposited Plan 59934 free of charge to the State of Western Australia for the purposes of road reservation;
- (3) request the Minister for Lands to issue a taking order pursuant to Section 177 of the *Land Administration Act 1997* to take proposed Lot 402 on Deposited Plan 59934;
- (4) request the Minister for Lands to dedicate proposed Lot 402 on Deposited Plan 59934 as a road reserve, pursuant to Section 56 of the *Land Administration Act 1997*; and
- (5) indemnify the Minister for Lands against reasonable costs incurred in considering and granting this request.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**

The owner of Lot 401 Armadale Road has been granted planning approval by the City to develop a showroom (bulky goods retail) development on the subject land. As part of this planning approval, the following condition was imposed:

- “4. *Prior to the occupation of the development, the applicant must enter into a Deed with the City prepared by the City’s solicitors to provide, when required, for the portion of the*



*subject land reserved for Other Regional Roads (North Lake Road) being vested in the Crown under section 152 of the Planning and Development Act, such land to be ceded free of cost and without payment of compensation by the Crown. The owner shall be responsible to pay all costs of an incidental to the preparation of the deed (including all drafts)."*

At the request of the proponent, and following further legal advice, this condition was modified to read as follows:

- "4. *Prior to the occupation of the development, the applicant must enter into a Deed with the City prepared by the City's solicitors to provide, when required, for the portion of the subject land reserved for Other Regional Roads (North Lake Road) being dedicated pursuant to section 56 of the Land Administration Act 1997, such land to be ceded free of cost and without payment of compensation by the Crown. The owner shall be responsible to pay all costs of an incidental to the preparation of the deed (including all drafts)."*

In respect of this condition, proposed Lot 402 on Deposited Plan 59934 represents the extent of the subject land required to be dedicated for road reservation purposes. This is the purpose of this report.

### **Submission**

N/A

### **Report**

Legal advice from the City's solicitor (McLeods) and consultation with Department for Planning and Infrastructure (State Land Services) has resulted in a requirement that the landowner agree to a taking of the land by agreement pursuant to Section 177 of the *Land Administration Act 1997*. This action is required such that the land can be placed in the name of the State of Western Australia, and is a precondition to the land then being dedicated as a road reserve pursuant to Section 56 of the *Land Administration Act 1997*.

The road design and construction has been undertaken by the proponent in conjunction with the balance civil works associated with the showroom development on the remainder of the parent lot. The works associated with the future roads have been inspected by the City's engineering staff, but some supervision fees, certificates and maintenance bonds remain outstanding. Although the works have been undertaken in association with the related development, it is felt that given the road is now to be transferred to the control of the City, the same standards should be applied as would have been the case had the City required a formal subdivision to take place. It was at the



request and benefit of the proponent that the City agreed to this more unusual approach.

An agreement incorporating all of these undertakings has now been prepared by the City's solicitor.

State Land Services have negotiated clearances from several service authorities that have easements on proposed Lot 402, and have indicated that the request for road dedication pursuant to Section 56 should be successful. They have also requested that in future the City encourages developers to follow the usual subdivision processes when creating any road reserves.

Accordingly, given that agreement has now been reached, Council can request the Minister for Lands to make a taking order in relation to proposed Lot 402. The dedication of proposed Lot 402 as a road reserve can then take place under Section 56 of the Land Administration Act 1997.

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

#### **Demographic Planning**

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

### **Budget/Financial Implications**

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

### **Legal Implications**

Land Administration Act 1997 refers.

### **Community Consultation**

N/A

### **Attachment(s)**

Location Plan

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



N/A

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

Nil.

**14.5 (OCM 9/4/2009) - SOUTH BEACH ESTATE, NORTH COOGEE - SOIL CLASSIFICATION - PROPOSED LOTS 366 AND 394 BREAKSEA DRIVE; LOCATION: 9017L HEIRISSON WAY, NORTH COOGEE; OWNER/APPLICANT: STOCKLAND (135855) (J WEST) (ATTACH)**

**RECOMMENDATION**

That Council:

(1) support the Applicant's request to classify Lot 366 and 394 Breaksea Drive, North Coogee within the South Beach Estate (North Coogee) with a soil classification of "P" pursuant to Australian Standard 2870 – 1996 on the basis of Coffey's Geotechnical Investigation Report - Stockland WA Developments Pty Ltd South Beach Lots 366 and 394 - Report GEOTHERD08031AC-AB 18 December 2008, subject to:

1. The satisfactory compliance with all other conditions of Western Australian Planning Commission Subdivision Approval WAPC 135855, approved on 8 February 2008.
2. A notification under Section 70A of the Transfer of Land Act being prepared and lodged with the Registrar of Titles Office on the Certificate of Title/s advising any prospective purchaser/s of the Lot/s of the site classification and Coffey Report reference details. The Notification should (at the cost of the Applicant) state as follows:

*The land has been classified as "P" under Australian Standard 2870-1996 because the majority of fill across the site is considered uncontrolled fill, as the presence of unsuitable and soft materials cannot be ruled out. Refer to Coffey's Geotechnical Investigation Report - Stockland WA Developments Pty Ltd South Beach Lots 366 and 394 - Report GEOTHERD08031AC-AB 18 December 2008, when structurally designing buildings.*

- (2) advise Stockland of Council's decision accordingly.
- (3) undertake a review of Council Policy APD35 so as to facilitate the acceptance of site classifications other than A, S or M



(pursuant to AS 2870) in circumstances only where the City's opinion is that there exists no other feasible option to remediate the site in accordance with Policy APD35.

#### **COUNCIL DECISION**

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

**CARRIED 10/0**

#### **Background**

A request for subdivision clearance has not been received by the City at this stage. However the Applicant seeks to address the issue of soil classification of the proposed lots in regard to the City's Policy APD35.

The City's Policy APD35 requires:

*"Where the geotechnical report classifies the site other than Class "A" in accordance with AS 2870 (1996) a notification under section 70A of the Transfer of Land Act is to be prepared in a form acceptable to the Council and judged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot. **Class "P", "H" and "E" sites will not be accepted by Council and must be fully remediated to enable building construction based upon a Class "A", Class "S" or Class "M" standard.**"*

The proposed Lots do not comply with the City's Policy, as the Lots have been classified "P" pursuant to the Australian Standard 2870 - 1996.

#### **Submission**

The Applicant has sought Council's acceptance of the proposed lots as constructed (ie class "P") to facilitate subdivision clearance, when the applicant does submit a request for clearance. Advice from the applicant confirms submission of a subdivision clearance request is imminent.

The Applicant has submitted letters of advice (dated 4 and 20 February 2009) from Coffey Geotechnical Engineers. Coffey confirm that a site classification under Australian Standard 2870 Residential Slabs and Footings is not applicable to 4-5 storey buildings (as are likely to be constructed on the new lots). They further confirm the difficulty in excavating and re-compacting the problem fill material ie. road closures, interruptions to services, split site classifications etc.

Coffey confirms that a classification of "P" does not mean the sites cannot be developed without remediation. It does however mean that



building footings should be designed with special attention paid to existing ground conditions (see attachments).

## **Report**

The City's Policy APD35 seeks to ensure that all proposed lots prior to subdivision clearance are assessed in accordance with Australian Standard 2870-1996.

Australian Standard 2870 is applicable to residential type structures up to two storeys in height.

The draft Detail Area Plan for the lots demonstrates building heights up to 5 storeys, the vast majority of the sites are likely to be developed with buildings exceeding 2 storeys in height. The zoning of the land is R60-R100. Australian Standard 2870 would not be applicable to such buildings; as such any proposed building greater than two storeys would require specific geotechnical site investigation and a report which provides allowable bearing capacity and anticipated settlement. This requirement would be addressed at the building application stage.

It is intended that details in regard to the soil classification also be included in the Detailed Area Plan for the lots when the DAP is finalised.

The City has previously had to accept a "P" classification in regard to other lots within the same area that abut the old Fremantle tip site. This is because it was not possible to remediate those lots without excavating across lot boundaries and into the tip site which is also a contaminated site.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

### **Budget/Financial Implications**

The cost to complete the Section 70A process will be borne by the applicant.

### **Legal Implications**



N/A

**Community Consultation**

N/A

**Attachment(s)**

1. Location Map.
2. Email (Dan Covich – Wood and Grieve Engineers) dated 23 February 2009.
3. Coffey Geotechnics letter dated 4 February 2009.
4. Coffey Geotechnics letter dated 20 February 2009.

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

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

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

Nil.

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

**15.1 (MINUTE NO 3933) (OCM 9/4/2009) - LIST OF CREDITORS PAID - FEBRUARY 2009 (5605) (K LAPHAM) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for February 2009, as attached to the Agenda.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**



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

**Submission**

N/A

**Report**

The list of accounts for February 2009 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**Strategic Plan/Policy Implications**

**Governance Excellence**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – February 2009.

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

N/A

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

Nil.





15.2 **(MINUTE NO 3934) (OCM 9/4/2009) - STATEMENT OF FINANCIAL ACTIVITY - FEBRUARY 2009 (5505) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statements of Financial Activity and associated reports for February 2009, as attached to the Agenda.

**COUNCIL DECISION**

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

**CARRIED 10/0**

**Background**

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

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

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

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

**Submission**

N/A

**Report**

Attached to the Agenda is the Statement of Financial Activity for February 2009. These include explanations for material variances within operating revenue and expenditure, as well as for capital works & project expenditure.



Note 1 shows the program split for grants and contributions received towards asset purchase and development.

Note 2 provides a reconciliation of Council's net current assets (adjusted for restricted assets and cash backed reserves). This provides a financial measure of Council's working capital and an indication of its liquid financial health.

Also provided are Reserve Fund and Restricted Funds Analysis Statements. These assist to substantiate the calculation of Council's net current assets position.

The Reserve Fund Statement reports the budget and actual balances for Council's cash backed reserves, whilst the Restricted Funds Analysis summarises bonds, deposits and infrastructure contributions held by Council. The funds reported in these statements are deemed restricted in accordance with Australian Accounting Standards.

#### Financial Review - February 2009

The City continues to be on track to achieve its budgeted income for 2008/09 with land sales in the Tapper Road development enjoying a resurgence of late as a result of the first home owner grant providing a stimulus to land sales within the \$160k to \$240k price range. Rating income is slightly higher due to interim rates for Port Coogee and industrial precincts. Landfill income, planning and building fees are slowing considerably as a result of the slowing income.

Expenditure for salaries is below budget as every staff position is being scrutinised to ensure that the need is essential. This impact is saving the City funds with the payroll budget approximately \$0.75m under budget. Material and contracts expenditure is also below budget as a number of operations are yet to commence. Utilities and insurance will come in on budget. General expenditure is also expected to come in on budget as this covers areas such as the SMRC loan repayment and donations to community groups. Depreciation is running slightly ahead of budget.

Cash at bank and investments are also holding up with the City having \$59.4M as at 28 February 2009.

Capital expenditure is running behind budget but this is expected as a number of capital projects are yet to commence, such as the Aubin Grove Facility (\$1.9m), Cockburn Central library (\$2.0m). However, a number of other projects are on budget such as the Hammond Road Regional Recreational Facility, Cockburn Civic Centre Seniors Centre and a range of road projects.



### Material Variance Threshold

For the purpose of identifying material variances in Statements of Financial Activity, Financial Management Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality. This standard defines materiality in financial reporting and states that materiality is a matter for professional judgement. Information is material where its exclusion may impair the usefulness of the information provided. AAS5 does offer some guidance in this regard by stating that an amount that is equal to or greater than 10% of the appropriate base amount may be presumed to be material.

The materiality threshold adopted by Council for the 2008/09 financial year is \$50,000 or 10% (whichever is the greater). In applying the threshold, officers give due regard to the nature of the data and how it is best consolidated (e.g. at an individual project level, specific works program, distinct activity, nature and type level etc).

### Change of Rating Category - UV to GRV

The City is continuing to review the status of all UV (Unimproved Value) properties within its boundaries especially those in established urban areas. The purpose of the UV status is to value land primarily as land used for rural purposes and not for urban residential, commercial or industrial properties. This is in line with the principal used by the Valuer General, in that UV valuations should only be used for rural land, otherwise GRV should be the primary valuation method.

A number of properties have been identified as having fallen into the categories below:

1. Industrial properties in predominantly urban areas classified as UV;
2. Urban developments in urban areas classified as UV;
3. Former rural blocks not used for rural purposes in urban areas; and
4. Rural lots in urban areas (not used as rural blocks) classified as UV

The City has identified 274 lots that will be submitted to the Director General of the Department of Local Government and Regional Development under delegated authority to have their valuation classification changed from UV to GRV as the table below indicates. In all, 78% will receive lower rates but the City will be no worse off as several of the lots identified in the review will pay higher rates because of their industrial use. To date, these industrial properties have

received and paid lower rates than if they had been in other (more urban) municipalities.

The City will write to all affected properties advising them of the change.



Suburb	No.	GRV	GRV Rates	UV	UV Rates	lower rates	higher rates
Jandakot	167	\$4,151,977	\$284,147	\$101,664,711	\$176,670	144	23
Henderson	14	\$829,930	\$57,392	\$26,865,000	\$48,876	12	2
Atwell/Aubin Grove	4	\$186,020	\$19,521	\$7,520,000	\$15,729	2	2
Yangebup	7	\$274,432	\$23,645	\$13,260,000	\$25,820	4	3
Hammond Park	61	\$3,079,956	\$291,213	\$148,920,000	\$299,424	36	25
Success	21	\$525,872	\$43,198	\$29,500,000	\$52,179	16	5
<b>Total</b>	<b>274</b>	<b>\$9,048,187</b>	<b>\$719,117</b>	<b>\$327,729,711</b>	<b>\$618,698</b>	<b>214</b>	<b>60</b>

Based on 2008/09 rates and valuations

### Strategic Plan/Policy Implications

#### Governance Excellence

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

#### Budget/Financial Implications

Where variances reported are of a permanent nature (i.e. not due to timing issues), they will impact Council's end of year surplus/deficit position.

#### Legal Implications

Section 6.4 of the Local Government Act, 1995 and Regulation 34 of the Local Government (Financial management) Regulations 1996, refer.

#### Community Consultation

N/A

#### Attachment(s)

Statement of Financial Activity and associated reports - February 2009.

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

N/A

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

Nil.



## 16. ENGINEERING AND WORKS DIVISION ISSUES

### 16.1 (OCM 9/4/2009) - CITY OF CANNING DECISION TO WITHDRAW FROM THE SMRC (4904) (M LITTLETON)

#### RECOMMENDATION

That Council:

- (1) seek a briefing paper from the SMRC outlining:
  1. the history of the odour issue.
  2. The steps taken to address the concerns of residents, the DEC and the City of Canning.
  3. The amount of funding expended to address the odour issue.
  4. The number of times the City of Canning or their representatives have formally sought action on the odour issue (or any other issue) through notices of motion, formal questions on notice or statements to the SMRC Council.
  5. The potential implications of the City of Canning's withdrawal from the project and these implications can be mitigated; and
- (2) seek a meeting with the Chief Executive Officer and Mayor of the City of Canning to discuss their intention to withdraw from the SMRC project.

#### COUNCIL DECISION

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

**CARRIED 10/0**

#### Background

The Southern Metropolitan Regional Council (SMRC) currently acts as a disposal point for all of the City of Cockburn's domestic waste (i.e. waste generated by our residential properties). It operates a multifaceted waste management facility which uses alternative waste treatment technology to maximize the recovery of MSW (municipal solid waste) and to divert as much waste as possible away from landfill. The facility consists of a number of treatment processes including:



- Waste composting facility (WCF) – which subjects MSW to a process of segregation, anaerobic digestion and microbial stabilization to produce compost and residual waste.
- Material recovery facility (MRF) – separation of recyclable waste stream.
- Green waste (GW) – shreds and processes clean green waste stream.

The SMRC is a Regional Council made up of the Municipal districts of the Cities of Cockburn, Melville, Rockingham, Fremantle and Canning and the Towns of East Fremantle and Kwinana. It is formally constituted under the auspices of the Local Government Act 1995 and must comply with that legislation. It was established to plan, develop, co-ordinate and implement sustainable waste management solutions and greenhouse gas abatement programs with, and for, its 7 member Councils and their communities.

The SMRC has been addressing odour issues for the past 18 months and did allocate approximately \$2.6Million to improve the odour capture and ducting infrastructure within the plant last financial year. Residents in close proximity to the plant however continue to express concern at fugitive odours leaving the site and impacting on their quality of life. The City of Canning have been fielding the *lion share* of concerns raised by concerned citizens and have now, at a Special Council meeting of 19 February 2009, taken steps to withdraw from the SMRC project as demonstrated by the following resolution:

*Following the advice and recommendation provided by Hardy Bowen Lawyers in its confidential advice of 19 February 2009, the Acting Chief Executive Officer be instructed to write to the Southern Metropolitan Regional Council (SMRC), instructing them under the provision of the Establishment Agreement, that:*

- (a) *The City of Canning withdraws from the SMRC immediately.*
- (b) *The City is not amenable to direction in relation to the delivery of waste, other than to the Regional Resource Recovery Centre (RRRC), and that if the RRRC is unable to accept the waste, it will be delivered by the City to a site of its choosing.*
- (c) *The SMRC be advised that the City is of the view that there is a dispute in relation to the obligations of the RRRC, having regard to:*
  - (i) *the economic sustainability of the facility; and*
  - (ii) *the environmental hazards caused by the facility;*



*which requires to be dealt with in accordance with the good faith negotiations in the Project Participants Agreement.*

- (d) *The City should initiate a dispute under the lease in relation to the odour emissions, with a view to determining whether there has been a breach of the lease.*
- (e) *A further report be presented to Council outlining the progress of the above matters within one month.*
- (f) *A further report be presented to Council outlining a media campaign to the ratepayers of the City within one month of this motion.*

### **Submission**

To inform Council of the City of Canning's decision, to withdraw from the SMRC project to seek further information from the SMRC regarding the implications of that decision and to seek a meeting with the City of Canning to discuss the matter.

### **Report**

A recent statement contained within the City of Canning's Minutes published on their website (refer 10 March 2009) identified that ... *from October 2007 to 24 February 2009, 56 reports relating to the Southern Metropolitan Regional Council have been presented to the City of Canning Council. Further, questions raised during public question time on this subject matter, have occurred at 21 City of Canning Council Meetings during this time period*'. Clearly this has been an issue for some time, however, the magnitude of the issue for Canning may have been somewhat tempered by the support that existed at a Council level. Former Mayor, Dr. Mick Lekias, was Canning's representative on the SMRC board and a supporter of the philosophy and principles of sustainability and waste recovery which underpin the SMRC business. Whilst the political issues for Canning may not have changed, clearly support for the project has, yet Canning do not appear to have taken steps to engage with other member Councils nor seek to express their dissatisfaction at board level.

The decision to withdraw from the SMRC project is a significant one for Canning and officers believe it presents a significant risk to the City of

Cockburn's stake in the business. To date the City of Canning have not sought to engage with the City of Cockburn regarding their current issues with the SMRC nor have they formally advised the City of their decision to withdraw from the project. The SMRC originated and evolved on the strength of the collegiate approach adopted by the member Councils and much has been achieved over the years. Unfortunately the success of the recovery effort has been tempered by



operating deficits, plant closures, plant breakdown and cost over-runs, substantial fee escalations, the outstanding odour issue and now the substantial reduction in commodity prices. Cockburn understands these issues impact on us as much as Canning. It is a shame that Canning had not sought to discuss their concerns with Cockburn prior to making their decision to withdraw from the project nor to actively engage the SMRC where they believed that they had failed in their operational, governance or administrative obligations to its members. These are fundamental issues to do with the business and the City of Cockburn would have supported Canning in these efforts had it been approached.

Despite the concerns being raised in the Chamber, neither the City of Canning nor their representatives have formally raised any issues through a notice of motion, questions on notice or statements to the SMRC Council as reported in the SMRC Minutes. The odour issue and its impact on the community and on Canning Council has been understood and the SMRC have taken steps to address that odour issue. The success of the capital works project has been the subject of further technical studies undertaken by *The Odour Unit* and a subsequent review undertaken by the DEC. One would assume that actively participating in the business of the SMRC gives the City of Canning the very best opportunity to influence the direction, operation and administration of the SMRC and puts it in the best position to influence change and address the issues. The decision to withdraw does not enable Canning to do any of these things. Cockburn however must seek further information to understand the risk of the decision and our exposure to further financial liability. To do this the following recommendation is proposed:

- (1) seek a briefing paper from the SMRC outlining:
  1. the history of the odour issue
  2. the steps taken to address the concerns of residents, the DEC and the City of Canning.
  3. The amount of funding expended to address the odour issue.
  4. The number of times the City of Canning or their representatives have formally sought action on the odour issue (or any other issue) through notices of motion, formal questions on notice or statements to the SMRC Council.
  5. The potential implications of the City of Canning's withdrawal from the project and these implications can be mitigated; and
- (2) seek a meeting with the CEO and Mayor of the City of Canning to discuss their intentions to withdraw from the SMRC project.





**Strategic Plan/Policy Implications**

**Lifestyle and Aspiration Achievement**

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

**Natural Environmental Management**

- To manage the City's waste stream to achieve sustainable resource management, in an environmentally acceptable manner.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

N/A

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

N/A

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

Nil.

**16.2 (MINUTE NO 3936) (OCM 9/4/2009) - TENDER NO.RFT30/2008 - CONCRETING SERVICES - FOOTPATHS, SHARED USE PATHS ETC. IN-SITU CONCRETE (RFT30/2008) (M LITTLETON) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender submitted by Dowsing Concrete for Concreting Services for Tender No.RFT30/2008 - Footpaths, Shared Use Paths etc In-situ Concrete, for a period of three(3) years, with an option to extend to five(5) years, for a lump-sum price of \$1,925,000.00 GST inclusive (\$1,732,500 GST exclusive).



**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr T Romano that Council accept the schedule of rates submitted by Dowsing Concrete for Tender No. RFT30/2008 for Concreting Services - Footpaths, Shared Use Paths etc In-Situ construction, for the period of three (3) years, with an option to extend to five (5) years.

**CARRIED 10/0**

**Reason for Decision**

Tender RFT 30/2008 is not a lump sum contract as identified in the resolution, rather it is a Schedule of Rate contract and this must be amended accordingly.

**Background**

From time to time the City of Cockburn requires the services of an experienced and qualified concreting contractor to supply and install in-situ concrete paths and paving.

In the 2007/08 financial period the City expended approximately \$324,000 on such works.

**Submission**

Tenders closed at 2:00pm (AWDT) on Tuesday, 21 October 2008. Three (3) tender submissions were received from:

1. Swan Hills Concrete
2. Westside Concrete Contractors
3. Dowsing Concrete

**Report**

Compliant Tenderers

Both Swan Hills Concrete and Dowsing Concrete complied with the tender criteria.

Westside Concrete Contractors have 'gone into liquidation' since submitting their tender. This was confirmed by Mr Dougal McClay, of DMA Chartered Accountants, the appointed Administrator for Westside. Westside was therefore deemed to be a non-compliant tenderer and was excluded from consideration.



### Evaluation Criteria

The table below lists the evaluation criteria were applied to all tenders.

<b>Evaluation Criteria</b>	<b>Weighting Percentage</b>
Demonstrated Experience	30%
Key Personnel Skills and Experience	20%
Tenderer's Resources	10%
Delivery Response Time	10%
Tendered Price	10%
<b>TOTAL</b>	<b>100%</b>

Swan Hills Concrete provided a scant submission which did not address the criteria as comprehensively as Dowsing Concrete; for example, no information regarding response time was given.

Dowsing Concrete scored highly for resources and experience with similar Local Government works programmes and a range of concrete products and services.

When considering price, a total value for the rates for all services was totalled . This provided an opportunity to compare a range of rates at a single glance. Each category of works was then compared separately and generally Swan Hills Concrete submitted slightly lower prices than Dowsing for most services other than traffic management.

The combined scores were assessed (refer scoring table) and Dowsing Concrete was identified as providing the most advantageous tender submission.

### Evaluating Officers

The tender submissions were evaluated by:

1. Joanne Smith, Parks Manager
2. Peter Godridge, Parks Construction Officer



Scoring Table

Tenderer's Name	Percentage Scores		
	Non-cost Evaluation	Cost Evaluation	Total
	70%	30%	100%
Dowsing Concrete*	70	24.3	94.3%
Swan Hills Concrete	27.76	27.51	55.27%

\*Recommended Submission

**Strategic Plan/Policy Implications****Infrastructure Development**

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

**Budget/Financial Implications**

It is anticipated that the City of Cockburn will expend in the vicinity of \$350,000 per year on contracted concrete pathway in-situ works.

**Legal Implications**

Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 refers.

**Community Consultation**

Tender No.RFT30/2008 – Concreting Services – Footpaths, Shared Use Paths etc. In-Situ Concrete was advertised on Saturday, 4 October 2008 in the Local Government Tenders section of The West Australian newspaper and also on the City's web site between Saturday, 4 October 2008 and Tuesday, 21 October 2008.

**Attachment(s)**

1. Compliance Criteria Checklist.
2. Tendered Prices – Confidential (under separate cover).
3. Tender Evaluation – Confidential (under separate cover).

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

N/A

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

Nil.



## 17. COMMUNITY SERVICES DIVISION ISSUES

### 17.1 **(MINUTE NO 3937) (OCM 9/4/2009) - LEASE OF THE BANJUP COMMUNITY HALL LOCATED ON LOT 414 OXLEY ROAD, BANJUP TO THE ATWELL SCOUT GROUP (5513246) (A LACQUIERE) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) enter a lease arrangement with The Scout Association of Association - Western Australian Branch for a portion of (Reserve 33002) Lot 414 Oxley Road, Banjup as shown on the attached plan as follows:
  1. At one peppercorn per annum for a period of 5 years with an option for the City to renew for a further 5 years.
  2. The Lessee be required to meet the cost of all outgoings, in accordance with a maintenance schedule to be included in the Lease.
  3. All other terms and conditions within the lease to be negotiated to the satisfaction of the Chief Executive Officer.
- (2) seek the approval from the Department of Planning and Infrastructure to enter into a lease between the City and the Australian Scout Association, West Australian Branch on the portion of Reserve 33002 vested in the City.

#### **COUNCIL DECISION**

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

**CARRIED 10/0**

#### **Background**

The Atwell Scout Group has been utilising the Banjup Community Hall facilities for a number of years as a base for their activities. The Scout Association of Australia - West Australian Branch has previously held a lease on the facility on behalf of the Jandakot Scouts Group from 1998 to 2004. The Atwell Scout Group has expressed interest in re-entering into a lease arrangement for the facility through The Scout Association of Australia - West Australian Branch, as the Group would like to



extend their current booking of 3 nights during the week to now also include weekend bookings.

The Banjup Community Hall is currently managed and booked by the City's Recreation Services, however limited use of the facility for regular and casual hire suggests that the Banjup Hall could be better utilised and managed under a lease arrangement. The opportunity to lease the facility to the Scout Group would provide mutual benefits to the Scout Group and the City.

### **Submission**

N/A

### **Report**

The Atwell Scout Group has approached the City seeking a Lease for the Banjup Community Centre to meet the current and future needs of the Group. The Atwell Scout Group has an active membership in excess of 80 and is one of the larger serving Scout Groups in the State.

After expressing their interest in leasing the facility, Recreation Services met with a representative of the Group to outline the leasing arrangements in accordance with the City's standard leasing conditions.

The proposed leasing arrangement would see the Scout Group responsible for the management and maintenance of the facility including paying of all outgoings as negotiated within the leasing terms at an annual rent of one peppercorn. As per the City's standard lease terms, the City will still be responsible for any structural or major maintenance required at the facility. The City will encourage the Scout Group to make the facility available for community hire, allowing an income source for the Group to assist in maintaining the facility. This will form part of the special conditions written into the lease document.

It is proposed that the City enter into a lease arrangement with the Atwell Scout Group for a period of 5 years with an option to renew for a further 5 year term, subject to compliance with conditions set out in the lease.

As the Banjup Community Hall is located on a portion of Reserve 33002 and is vested in the City, approval from the Department of Planning and Infrastructure will be required prior to entering into a lease arrangement.



## Strategic Plan/Policy Implications

### Infrastructure Development

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

### Governance Excellence

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

## Budget/Financial Implications

The City has currently allocated \$38,239 (inclusive of depreciation of \$11,000) for building maintenance in 2008/09 financial budget. The income generated from the Banjup Hall for 2008/09 was \$8,124 which was almost exclusively from the current rental paid by the Atwell Scout Group.

It is proposed that the lease document require the Scout Group to have responsibility for all routine maintenance and operation costs associated with the ongoing operation of the building, in accordance with a maintenance schedule to be prepared.

## Legal Implications

Disposal of Local Government property must be in accordance with Section 3.58 of the *Local Government Act 1995* and its associated regulations. The *Local Government (Functions and General) Regulations 1996*, Part 6, Clause 30 (2) states that a disposition of land (which includes a lease) is exempt from the normal public advertising and public auction/tender/sale requirements of Section 3.58 of the *Local Government Act 1995* if the land is disposed of to a body (whether incorporated or not), “*the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature*” and “*the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions*”. As potential lessee, the Scout Association clearly meets these criteria and is therefore exempt from the normal Section 3.58 requirements.

## Community Consultation

N/A

## Attachment(s)

Aerial map of the proposed leased area.



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

The Atwell Scouts Group have been advised that this matter is to be considered at the 9 April Council Meeting.

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

Nil.

**17.2 (MINUTE NO 3938) (OCM 9/4/2009) - TENDER NO.RFT01/2009 - BUILDING CONSTRUCTION SERVICES - HAMMOND ROAD SPORTS & RECREATION FACILITY, SUCCESS (RFT01/2009) (S HARRIS) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender submitted by Diploma Pty Ltd, for Tender No: RFT01/2009 - Building Construction Services - Hammond Road Sports and Recreation Facility, Success, for the lump-sum price of \$4,759,590 GST inclusive (\$4,326,900.00 GST exclusive).

**COUNCIL DECISION**

MOVED Deputy Mayor K Allen SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 10/0**

**Background**

The project comprises the development of the undeveloped Reserve 7756 Hammond Road Success into a regional multi-purpose sport and recreation facility for the residents of the City of Cockburn.

The civil works for the Success Regional Sports Facility commenced in August 2008 and are scheduled for completion on 15 April 2009.

The contract for the bore installation was awarded in December 2008 and is substantially completed, with testing to be finalised in April/May 2009.

The contract for irrigation for the site was awarded in December 2008 and is currently underway.

The grassing contract for the oval space was awarded in March 2009, with the ovals to be ready for use by March 2010.





Based on the adopted timeline for completing the project, the contract for the building and netball courts has been programmed to run from April 2009 to February 2010.

### **Submission**

Tenders closed at 2.00 pm (AWDT) on Tuesday, 10 March 2009 and tender submissions were received from:

1. Firm Construction P/L
2. Thomas & Coffey Ltd
3. Merit Projects
4. Tooltime Construction P/L
5. Metrocon P/L
6. Gavin Construction
7. Arcccon (WA) P/L
8. Esslemont Building & Civil
9. DBM Contractors P/L
10. Pindan P/L
11. Duwal Constructions
12. Diploma Construction (WA) P/L
13. Myers Constructions (1995) P/L
14. CPD Group P/L
15. Dalcon Construction P/L
16. Niche Construction WA P/L
17. Probuild Constructions (Aust) P/L

### **Report**

The Success Recreation and Sport Facility will be a regional sport facility on the eastern side of Cockburn. The facility will cater to both the needs of the local community while offering facilities to the wider Cockburn area and beyond. A school borders the southern side of the oval space and the school will use a portion of the ovals during school hours. Other facilities at the school such as multi-marked tennis / basketball courts complement the local recreation provision of the facility.

Initial designs considered the inclusion of some tennis courts, however the inclusion of these courts would have compromised the ability of the facility to cater to netball at a regional level. The current design sees twenty (20) dedicated netball courts, allowing the facility to cater to a regional Netball competition. There remains the potential to mark some courts for tennis should this be warranted in the future.

The design of the ovals accommodates sports requiring a rectangular pitch. Given the proximity to Beeliar and the soccer club established at that facility, the Success Regional Facility is viewed as being ideally suited to Rugby Union. The City is currently negotiating with the Southern Lions Rugby Union Club to relocate to the facility when it



opens in 2010. The Southern Lions, with a catchment largely made up of Cockburn Residents, will see the oval facilities used for regional and district competition, further enhancing the regional status of the facility.

Compliant Tenderers

There were seventeen(17) tenders submitted and four (4) were deemed non-compliant with the conditions of the tendering and compliance criteria.

Firm Construction P/L, Merit Projects, Dalcon Construction P/L and Probuild Constructions (Aust) P/L failed to comply with the insurance requirements of the tender.

Consequently, Thomas & Coffey Ltd, Tooltime Construction P/L, Metrocon P/L, Gavin Construction, Arcon (WA) P/L, Esslemont Building & Civil, DBM Contractors P/L, Pindan P/L, Duwal Constructions, Diploma Construction (WA) P/L, Myers Constructions (1995) P/L, CPD Group P/L, Dalcon Construction P/L, Niche Construction WA P/L were further assessed.

Elevation Criteria

<b>Evaluation Criteria</b>	<b>Weighted Percentage</b>
Tendered Price	60%
Relevant Experience	15%
Financial Position	10%
Key Personnel Skills & Experience	10%
Tenderer's Resources	5%
<b>Total</b>	<b>100%</b>

Tender Intent/Requirements

The City of Cockburn is seeking the services of a suitably qualified and experienced Building Construction Contractor for the construction of a regional Sports Complex on Reserve 7756, Hammond Road, Success WA.

The scope of works include the construction of a sporting and recreation facility, comprising of two(2) clubrooms, two (2) umpire rooms, a function room, programme room, meeting room, administration office, kitchen, four (4) change rooms, toilets, external paving, twenty(20) netball courts, sports court fencing, landscaping, lighting, and associated site works. The Principal's expectation is that the works will be completed within forty (40) weeks from the date of possession of the site.

The tender submissions were evaluated by:



Rob Avard – Manager Community Services  
 Shane Harris – Recreation and Cultural Services Manager  
 Richard Archer – Donald Cant Watts Corke Project Management  
 Derek Duncan – Bollig Design Group

### Scoring Table

<b>Tenderer's Name</b>	<b>Non-Cost Evaluation Score 40%</b>	<b>Cost Criteria Evaluation Score 60%</b>	<b>Total Score 100%</b>
Thomas & Coffey Ltd	26.97	49.84	76.81
Tooltime Construction P/L	24.17	45.47	69.64
Metrocon P/L	22.72	54.25	76.97
Gavin Construction	34.88	50.54	85.42
Arcon (WA) P/L	36.99	56.39	93.38
Esslemont Building & Civil	36.81	57.76	94.57
DBM Contractors P/L	28.64	54.53	83.17
Pindan P/L	38.1	56.59	94.69
Duwal Constructions	39.5	57.64	97.14
Diploma Construction (WA) P/L	39.21	60	99.21
Myers Constructions (1995) P/L	20.54	55.53	76.07
CPD Group P/L	23.12	52.85	75.97
Niche Construction WA P/L	18.83	58.04	76.87

### Evaluation Criteria Assessment

Tenders were required to provide adequate information in their tender submissions to allow for the scoring of each evaluation criteria.

### Summary

Independent evaluation was undertaken by two internal staff members, the external Project Manager from Donald Cants Watt Corke and the City's architectural consultant, Bollig Design Group. The combined officers assessment supports awarding the tender to Diploma Construction (WA) P/L and consequently officers recommend that Council accept their tender submission for the lump-sum price of \$4,759,590 GST inclusive (\$4,326,900.00 GST exclusive).

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

#### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.



### Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

### Budget/Financial Implications

Funds are available in Account No.CW4310 in the 2008/09 budget. Funds in the amount of \$2,078,000 are uncommitted this financial year and a further \$5,000,000 is proposed for the 2009/10 financial year to finalise the project. There has been a recent announcement that the City received a Community Sport Recreation Facilities Fund Grant of \$400,000 towards the cost of the netball courts and \$200,000 towards the clubrooms.

Initial construction estimates by the Quantity Surveyor predicted that the project would require a budget of \$10,263,894 (excluding GST). Revised estimates by the Quantity Surveyor in light of completed works and changes in building costs are as follows (excluding GST):

Civil Works (Wormall Tender)	\$2,631,898
Darling Downs Drilling (RFT 33/2008)	\$232,544
Malua Reticulation (RFT 34/2008)	\$216,944
Oval Grassing	\$100,000
Clubrooms and Netball Courts (RFT 01/2009)	\$4,351,420
Construction Contingency for Building Works	\$435,000
Furniture, Equipment & specialised fitout	\$200,000
Landscaping for site including entry	\$300,000
Footpath	\$50,000
Fence around wetlands	\$10,000
Playground and park furniture	\$80,000
Project Contingency	\$250,000
Consultant Fees	\$900,000
<b>Total</b>	<b>\$9,757,806</b>

The recent Quantity Surveyor's estimate for building works based on the tender specification was \$4,700,000 with the actual tender from Diploma Construction (WA) P/L being \$4,351,420 (excluding GST). The recommended tender is within the Quantity Surveyor's estimate for the building works portion of the project.

### Legal Implications

Section 3.57 of the Local Government Act 1995 and part 4 of the Local Government (Functions and General) Regulations 1996 refers.



### **Community Consultation**

Extensive community consultation was undertaken through the needs assessment conducted by the YMCA and CARE.

During the building design phase the City consulted with the Southern Lions Rugby Union Club in regard to building requirements and optimum building layout.

Tender No.RFT 01/2009 Building Construction Services – Hammond Road Sports and Recreation Facility, Success WA was advertised on Wednesday, 11 February 2009 in the Local Government Tenders section of the “The West Australian” newspaper. It was also listed on the City’s website between 10 February and 10 March 2009.

### **Attachment(s)**

1. Tendered Prices –“Confidential” (under separate cover)
2. Tender Evaluation Sheet – “Confidential” (under separate cover)
3. Compliance Criteria Checklist

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

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

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

Nil.

### **18. EXECUTIVE DIVISION ISSUES**

Nil

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

Nil

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

Nil

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

Nil



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

- 22.1** MAYOR LOGAN HOWLETT has requested a report be prepared on the formation of a Council Budget Committee on the basis that committee being open to the public, including provision for public question time.
- 22.2** MAYOR LOGAN HOWLETT has requested a report be prepared on the Council's Delegated Authorities, Policies and Position Statements Committee (DAPPS), including potential delegations and it being open to the public, including a provision for public question time.
- 22.3** MAYOR LOGAN HOWLETT has requested a report be prepared on options to assist in minimising the traffic congestion and parking problems at Cockburn Central.

**23. CONFIDENTIAL BUSINESS**

Nil

**24 (MINUTE NO 3939) OCM 9/4/2009 - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

MOVED Councillor S Limbert SECONDED Cllr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED 10/0**

**25. CLOSURE OF MEETING**

**MEETING CLOSED AT 8.48PM**



**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

