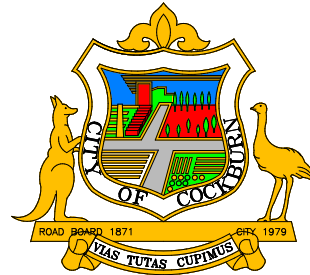


# **CITY OF COCKBURN**



## **SPECIAL COUNCIL**

## **AGENDA PAPER**

### **FOR**

### **TUESDAY 23 MAY 2000**



# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON TUESDAY, 23 MAY 2000 AT 7:30 P.M.

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON TUESDAY, 23 MAY 2000 AT 7:30 P.M.

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**1. DECLARATION OF OPENING**

**2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)**

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

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

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

**5. APOLOGIES AND LEAVE OF ABSENCE**

Cmr J. Smithson    Leave of Absence

**6. PUBLIC QUESTION TIME**

## 7. PURPOSE OF MEETING

The purpose of the meeting is to:-

- (1) discuss the recommendations listed in the Report of the Inquiry Into the City of Cockburn and the Council's response to be forwarded to the Minister for Local Government; and
- (2) receive and consider the Chief Executive Officer's response to the findings which relate to him.

## 8. COUNCIL MATTERS

### 8.1 (SCM1\_5\_2000) - RESPONSE TO THE REPORT OF THE INQUIRY INTO THE CITY OF COCKBURN (RWB) (1335)

#### RECOMMENDATION

That Council, pursuant to Section 8.23(4) of the Local Government Act, 1995 and in response to the recommendations contained in the Report of the Inquiry into the City of Cockburn, advise the Minister for Local Government as follows:-

- (1) In respect of Recommendations 1 and 2:

**R1.** "... that the *Royal Commissions Act* or Division 2 of Part 8 of the *Local Government Act* be amended -

- (a) to allow the issue, at any time during the course of an inquiry, of a summons for the production of documents alone (analogous to a subpoena *duces tecum*);
- (b) to delete the limitation, currently set out in section 18(1) of the *Royal Commissions Act*, applying to the search warrant power;
- (c) to ensure that a person engaged or appointed by, or for the purpose of assisting, a Commission or inquiry under Division 2 of Part 8 of the *Local Government Act* has adequate protection from personal liability;
- (d) to prohibit the improper use of information by staff engaged by a Commission or inquiry;

- (e) to enable a witness to choose between an oath and an affirmation, without the need to explain or justify the choice; and
- (f) to include, at least in defined circumstances, a right to legal representation and to make it clear that in other cases, if any, leave is required."  
[Para. 1.2.66]

**R2.** "... that standard forms, policies and procedures, including those prepared and adopted by this and earlier statutory enquiries, that may usefully be used as precedents be collated, adapted as precedents and made available for future statutory inquiries."  
[Para 1.2.66]

Council has no comment.

(2) In respect of Recommendation 3:

**R3.** "... that:-

- (a) the City, in conjunction with the Department of Local Government, review the training needs of elected members to ensure that they are adequately informed of their proper roles and responsibilities relating to the tender process, particularly the requirements, and rationale for the requirements, that -
  - (i) the tender process is fair and transparent;
  - (ii) tenders are assessed and decisions made on the basis - and only on the basis - of the advertised criteria; and
  - (iii) the overriding objective is to determine which of the tenders is most advantageous to the City."  
[Para 2.6.48]

Council will include a training module dedicated to tender processes in an elected member development programme to be provided by the City, following the election of a Council, to be facilitated in conjunction with the Department of Local Government.

(3) In respect of Recommendations 4, 5 and 6:

**R4.** "... that the City -

- (a) obtain further legal advice on the question whether, and if so how, cash-in-lieu payments made by participants in the Private Owners' Arrangement can lawfully be made to Urban Focus rather than to the City; and
- (b) refrain from giving any further clearances in respect of subdivision conditions relating to cash-in-lieu payments by participants in the Private Owners' Arrangement until it is satisfied that the payments have been made lawfully in accordance with the subdivision conditions."

[Para 4.12.29]

**R5.** "... that -

- (a) the City obtain further legal advice on the questions of whether -
  - (i) the payment of \$63,700 made by Urban Focus to the City on 24 December 1996 was required to be made to the City in accordance with the conditions of subdivision approval applying to Stage 16; and
  - (ii) the "refund" of \$63,700 by the City to Urban Focus on 17 February 1999 was lawful; and
- (b) if the refund was unlawful, the City take appropriate action to recover the money from Urban Focus."

[Para. 4.12.35]

**R6.** "... that the City, in consultation with the Department of Local Government -

- (a) seek further legal advice on the question of whether it would be lawful to treat payment of the sum of \$222,934 by the City to Urban Focus as having been made from the interest accrued in respect of the City's section 20C account; and
- (b) pursue a solution to this problem that is lawful and proper."

[Para 4.12.58]



## Council:

- (1) is of the opinion that there is sufficient legal and expert advice for it to be confident that its actions to address the issues raised by the Inquirer in Recommendations R4, R5 and R6 have been appropriate and lawful;
- (2) in the light of the Inquirer's Recommendations R4(a), R5(a) and R6(a), request the Department of Local Government to seek a legal opinion on the respective recommendations, given that the Council relied on the advice of the Department as the basis for addressing the issues raised; and
- (3) advise the Western Australian Planning Commission (WAPC) that the Council, based on Recommendation R4(b) of the Inquiry Into the City of Cockburn, is not prepared to issue clearance advices to the WAPC on conditions of subdivision relating to POS for land within the Packham Urban Development Area, and that such conditions be cleared by the Commission.

## (4) In respect of Recommendation 7:

**R7.** "... that -

- (a) the City develop, establish and implement procedures to ensure that its responses to -
  - (i) requests for information from the Ombudsman; and
  - (ii) findings and recommendations of the Ombudsman,

are consistent with the standards of accountability expected of a public sector agency; and
- (b) the City develop, establish and implement similar procedures to govern its responses to other reviews, particularly external reviews."

[Para 5.7.76]

## Council:

- (1) will develop a policy and associated administrative procedures to ensure that the handling of matters raised with Council through the Ombudsman and all other reviews, are treated in a consistent, thorough and equitable manner and will, wherever possible, endeavour

to reconcile the findings and recommendations of the Ombudsman and other reviews with Council's own outcome to these matters to bring about a positive resolution, and

(2) suggests that amendments should be made to the legislation under which the Ombudsman operates to give recommendations made by the Ombudsman the power of legal enforcement.

(3) suggests that legislation under which the Ombudsman operates be amended to require Ombudsman enquiries to be directed in the case of local government authorities, to the Chief Executive Officer, with a copy to the Mayor or President.

(5) In respect of Recommendation 8:

**R8.** "... that -

(a) section 5.62 of the *Local Government Act 1995* be amended to include, as a specific category of "closely associated" persons, a person for whom legal services are being provided by an elected member; and

(b) consideration be given to expanding the application of this new category to include -

(i) a temporal claw-back provision; and

(ii) the provision of other services."

[Para 8.14.12]

Council agrees with the suggestion to extend the category of "closely associated" persons to include legal services, however, is of the opinion that this category should also include a wider number of professional services.

(6) In respect of Recommendation 9:

**R9.** "... that Section 5.60A of the *Local Government Act 1995* be amended so that, in determining whether an elected member (or an employee) has a financial interest in a matter before a council or committee, it would be necessary to consider whether there was a reasonable expectation of a financial gain or loss resulting from either-

- (a) the way that the matter might be dealt with by the council or the committee; and
- (b) the way that the matter might be dealt with by the elected member (or employee)."

[Para 8.4.17]

Council agrees that the financial interest provisions of the Local Government Act, 1995, should be amended to reflect the intent of these recommendations.

(7) In respect of Recommendation 10:

**R10.** "... that the matters dealt with in this Chapter be referred to the Department of Local Government - which, under the Minister for Local Government, has the responsibility for the administration of the *Local Government Act 1995* - to determine whether Cr Wheatley should be prosecuted for breaches of the financial interest provisions of that Act."

[Para 8.4.77]

Council has no comment.

(8) In respect of Recommendation 11:

**R11.** "... that -

- (a) elected members who have a non-financial interest in a matter before a local government be encouraged, through appropriate training and guidelines from the Department of Local Government, to refrain from -
  - (i) participating in the decision making procedures relating to the matter;
  - (ii) voting on the matter; and
  - (iii) having anything to do with the matter in their roles as elected members;
- (b) at a council or committee meeting the elected members be given the power to decide whether a fellow member, who has declared a non-financial interest in a matter, should be entitled to participate in the discussion, or to vote, on that matter;

- (c) elected members who have dealings with their local government, or who have an interest, whether financial or not, in a matter before the local government should, in relation to that matter -
- (i) be restricted in their access to the local government's employees and elected members; and
  - (ii) have no greater right than a member of the public to obtain access to documents, or to use the resources of the local government; and
- (d) appropriate aspects of codes of conduct be enforceable either through the *Local Government Act* or through an appropriate local law, such as a local government's Standing Orders."
- [Para 8.5.80]

Council:

- (1) in respect of parts (a) and (b), agrees with the intent of this recommendation and that it has included the matters raised in parts (a) (i) and (ii) and (b) in its Standing Orders Local Law, adopted by Council in July 1999, to the effect that elected members, having declared a conflict of interest (non-financial) do not participate or vote on such matters;
  - (2) will include a training module dedicated to these issues in the elected member development programme referred to in sub recommendation (2) above;
  - (3) agrees that the Codes of Conduct adopted by local governments and the issues mentioned in part (c) should be enforceable through provisions of the Local Government Act; and
  - (4) will reinstate the "undue influence" provisions in the City's Codes of Conduct in the short term.
- (9) In respect of Recommendation 12:
- R12.** "... that the Council be dismissed."
- [Para 11.5.23]
- that, in the event that it is recommended by the Minister that Council be dismissed, Council considers the Minister should

give adequate allowance to ensuring a sufficient time frame is in place to accommodate probable amendments to Council's Ward Representation and Councillor numbers, including election of the Mayor by popular vote, as a result of the current review process taking place relative to this matter, prior to the setting of a date for the election of a new Council.

## COUNCIL DECISION

### Background

Following the completion of the inquiry into the City of Cockburn, a copy of the Inquiry Report has been reviewed by Council. In accordance with Section 8.23(4) of the Local Government Act, 1995, Council may provide written comments to the Minister on the Report recommendations.

### Submission

N/A

### Report

The Inquiry Report contains twelve (12) specific recommendations and this Report is intended only to provide Council's response to those recommendations.

It is to be noted that there are no provisions within the Act to enable Council to provide comment on the general contents of the Report, nor is it appropriate for this Council to do so.

Therefore, any comment and information contained throughout this Report is relative only to issues which involve the recommendations themselves.

### Recommendations 1 and 2

- R1. "... that the *Royal Commissions Act* or Division 2 of Part 8 of the *Local Government Act* be amended -
- (a) to allow the issue, at any time during the course of an inquiry, of a summons for the production of documents alone (analogous to a subpoena *duces tecum*);

- (b) to delete the limitation, currently set out in section 18(1) of the *Royal Commissions Act*, applying to the search warrant power;
- (c) to ensure that a person engaged or appointed by, or for the purpose of assisting, a Commission or inquiry under Division 2 of Part 8 of the *Local Government Act* has adequate protection from personal liability;
- (d) to prohibit the improper use of information by staff engaged by a Commission or inquiry;
- (e) to enable a witness to choose between an oath and an affirmation, without the need to explain or justify the choice; and
- (f) to include, at least in defined circumstances, a right to legal representation and to make it clear that in other cases, if any, leave is required."

[Para. 1.2.66]

R2. "... that standard forms, policies and procedures, including those prepared and adopted by this and earlier statutory enquiries, that may usefully be used as precedents be collated, adapted as precedents and made available for future statutory inquiries."

[Para 1.2.66]

### *Comment*

These two recommendations relate only to procedural matters which impacted on the Inquiry process, about which Council had no involvement. Therefore, any obvious concerns expressed by the Inquirer in relation to that process are best made direct to the authorities which are able to address any systemic anomalies which could improve the proceedings of any future inquiry.

Therefore, it is not appropriate for Council to offer any comment to these recommendations.

### *Recommendation 3*

R3. "... that:-

- (a) the City, in conjunction with the Department of Local Government, review the training needs of elected members to ensure that they are adequately informed of their proper roles and responsibilities relating to the tender process, particularly the requirements, and rationale for the requirements, that -

- (i) the tender process is fair and transparent;
  - (ii) tenders are assessed and decisions made on the basis - and only on the basis - of the advertised criteria; and
  - (iii) the overriding objective is to determine which of the tenders is most advantageous to the City."
- [Para 2.6.48]

### *Comment*

Tendering in local government has been a concern for a long time. The Department of Local Government has been monitoring tender processes in the industry and has endeavoured to address problem areas through legislative means. While this has led to some improvements, there are still many aspects of the tendering processes throughout local government which remain difficult to deal with. The City of Cockburn has partially addressed this situation by adopting a comprehensive Tender Assessment Policy. This has provided the basis by which both staff and elected members can deal with tenders in a transparent and accountable manner.

Therefore, it is considered appropriate for elected members to be made aware of the important aspects of tendering and the need for absolute accountability to be demonstrated by Council when handling tenders. It is proposed to conduct an extensive briefing session for the newly appointed Council, and it is appropriate to include a module on tender procedures for that time.

### *Recommendations 4, 5 and 6*

R4. "... that the City -

- (a) obtain further legal advice on the question whether, and if so how, cash-in-lieu payments made by participants in the Private Owners' Arrangement can lawfully be made to Urban Focus rather than to the City; and
- (b) refrain from giving any further clearances in respect of subdivision conditions relating to cash-in-lieu payments by participants in the Private Owners' Arrangement until it is satisfied that the payments have been made lawfully in accordance with the subdivision conditions."

[Para 4.12.29]

R5. "... that -

- (a) the City obtain further legal advice on the questions of whether -

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- (b) if the refund was unlawful, the City take appropriate action to recover the money from Urban Focus."

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R6. "... that the City, in consultation with the Department of Local Government -

- (a) seek further legal advice on the question of whether it would be lawful to treat payment of the sum of \$222,934 by the City to Urban Focus as having been made from the interest accrued in respect of the City's section 20C account; and
- (b) pursue a solution to this problem that is lawful and proper."

[Para 4.12.58]

### *Comment*

The Council sought and received legal and professional advice on the matters contained in Recommendations R4, R5 and R6 by the Inquiry before taking any action to address them.

- In respect of the matter subject of R4, the City sought and received legal and professional advice from McLeod & Co, Watts and Woodhouse and the Ministry for Planning.
- In respect of the matter subject of R5, the City sought and received legal and professional advice from McLeod & Co and the Department of Local Government.
- In respect of the matter subject of R6, the City sought and received legal and professional advice from McLeod & Co and the Department of Local Government.

In addition to the above advice, comprehensive examinations were undertaken by experts appointed by the Department of Local Government to report on the various issues relating to the Packham Urban Development Area, namely:-



- The Department of Local Government , Analysis Report on the Payment of Monies by Council in Relation to the Packham Urban Development Area by Mr Peter Webster in May 1998.
- The Report of the Inquiry into the City of Cockburn under Section 8.13 of the Local Government Act by Martin and Vicary in March 1999.
- Investigation Report into the Packham Urban Development Area for the Department of Local Government by Mr David Gray in May 1999.

The Council relied on this expert advice in relation to the various matters raised by the Inquirer, and believes that it is unnecessary to seek further advice.

Given that the most influential advice was received from the Department of Local Government, it would be prudent therefore, for the Department to seek advice from Crown Law, rather than the Council pursuing further advice itself.

It is important to point out that as a result of the situation surrounding Section 20C of the Act, the proposed planning legislation, namely the "Consolidation of the Planning Legislation" proposes to include the following provision to clarify the position in relation to the interest accrued on 20C monies:-

*"6.5.5.3. Further changes are being considered to Section 20C of the Town Planning and Development Act to:-*

- a) clarify that interest on a Public Open Space Trust Account should be returned to the Trust Account;*
- b) enable cash-in-lieu funds to be used to reimburse owners who have ceded excess land for public open space under a joint subdivision agreement by private landowners."*

In respect of a), the Western Australian Planning Commission has effectively acknowledged that there is no clear legal restraint on the use of interest monies accruing from the Section 20C account. The Commission has initiated the necessary steps to clarify any uncertainty via an amendment to the legislation.

This tends to confirm that under the current laws relating to the use of the interest accrued on the 20C account, the Council has no lawful restraints.

In relation to Recommendation R4 (b) there is no apparent basis for the Council to refrain from issuing clearances on subdivisions in response to the Inquirer's request. Despite this, however, it is suggested that where there is a footnote relating to cash-in-lieu, Council request the

WAPC to issue the clearance on all POS conditions that apply to subdivisions within the Packham Urban Development Area.

This approach will be consistent with the clearance of POS conditions on a subdivision in any event because such conditions are usually cleared by the WAPC not the Council, and the Council clearance is only an advice to the WAPC.

Alternatively, the Council could issue conditional clearances based on a legal opinion from Watts and Woodhouse, which was that Council should where appropriate issue "conditional" or "qualified" clearance advices to the WAPC where the Council's satisfaction is based on the advice of another party. This could be applied to cash-in-lieu payments collected by Urban Focus under the Packham Owners Agreement.

In the circumstances, however, it would be best that the WAPC issue the clearance for POS conditions in Packham.

#### Recommendation 7

R7. "... that -

- (a) the City develop, establish and implement procedures to ensure that its responses to -
  - (i) requests for information from the Ombudsman; and
  - (ii) findings and recommendations of the Ombudsman, are consistent with the standards of accountability expected of a public sector agency; and
- (b) the City develop, establish and implement similar procedures to govern its responses to other reviews, particularly external reviews."

[Para 5.7.76]

#### *Comment*

The Inquiry Report was very critical of Council in the manner in which it dealt with enquiries from the Ombudsman, even though this criticism was contained to specific matters.

Despite this, an accountable process needs to be evident within the City of Cockburn in respect of these enquiries.

Therefore, it is proposed to develop a Policy, together with associated administrative procedures, which address this shortcoming in Council's current system. Such processes will ensure that Ombudsman

enquiries are dealt with in an expeditious and thorough manner, in order to pay due respect to the Office of Ombudsman.

However, there is one aspect of the Inquiry recommendations which is cause for some concern. It has been the experience of this Council on one occasion, to be at odds with a particular conclusion of the Ombudsman and as a consequence, has not agreed with his recommendation. Subsequently, Council found itself in a situation that it could not support the Ombudsman's recommendations on the particular matter. In adopting this stance, which had the backing of a number of legal opinions, it became embroiled in a conflict with the Ombudsman which resulted in harsh criticism being levelled against Council. It is considered that this criticism was unfair because Council's position was based on a strong legal opinion and was not dismissive of the Ombudsman's recommendation for any other reason.

It is of some concern then, that in such circumstances, there is no power for the Ombudsman to exert any authority. This is somewhat strange, given that other legislation which contains review provisions (e.g. Freedom of Information) provides for an ultimate decision making power to be administered by the reviewing authority.

While it is not anticipated that such powers would often be necessary, as it would rightfully be expected that most issues involving an Ombudsman enquiry would be amicably settled, it would assist in circumstances where agreement between the Ombudsman and the party being investigated cannot be reached. It would give the situation some form of conclusion and add to the notion that the Ombudsman, as an independent assessor, should have the final word, where it is considered necessary.

Therefore, while accepting that Council's procedures in dealing with Ombudsman inquiries in the past require improvement, it is also considered that the Ombudsman's role should provide for an ultimate decision making capacity in certain irreconcilable situations.

It is considered that the legislation which governs the Ombudsman's operations, should require that all enquiries be directed to the Chief Executive Officer (CEO) in the first instance, with a copy to the Mayor or President of the Council.

This will have the effect of ensuring that the responsibility of dealing with the enquiry rests, ultimately, with the CEO, who is able to direct the necessary resources into ensuring the issue is dealt with in an expedient and appropriate manner. This is not necessarily the case under current arrangements, where all enquiries involving local governments are forwarded to the Mayor or President, who in most cases, would be unaware of the matter under investigation and in any case, must rely on Council staff to investigate and respond to the issue.

Recommendation 8

R8. "... that -

- (a) section 5.62 of the *Local Government Act 1995* be amended to include, as a specific category of "closely associated" persons, a person for whom legal services are being provided by an elected member; and
- (b) consideration be given to expanding the application of this new category to include -
  - (i) a temporal claw-back provision; and
  - (ii) the provision of other services."

[Para 8.14.12]

Comment

It is considered reasonable that the financial interest provisions of the Local Government Act, 1995, be extended to include professional services which are supplied from one elected member of Council to another, or an employee. However, consideration should be given to including more widespread professional services than only those involving legal representation.

Recommendation 9

R9. "... that Section 5.60A of the *Local Government Act 1995* be amended so that, in determining whether an elected member (or an employee) has a financial interest in a matter before a council or committee, it would be necessary to consider whether there was a reasonable expectation of a financial gain or loss resulting from either-

- (a) the way that the matter might be dealt with by the council or the committee; and
- (b) the way that the matter might be dealt with by the elected member (or employee)."

[Para 8.4.17]

Comment

Again, this recommendation concerns the extension of the financial interest provisions of the Act. The recommendation suggests that consideration of such interests should go beyond the mere association of one person to another and capture the process involved in considering the outcome of an issue before Council. It is considered

that any such tightening of these provisions which would enhance the propriety of Council elected members and staff, should be encouraged.

Recommendation 10

R10. "... that the matters dealt with in this Chapter be referred to the Department of Local Government - which, under the Minister for Local Government, has the responsibility for the administration of the *Local Government Act 1995* - to determine whether Cr Wheatley should be prosecuted for breaches of the financial interest provisions of that Act."

[Para 8.4.77]

*Comment*

As this is a matter external to this Council's jurisdiction, it is not considered appropriate for Council to comment.

Recommendation 11

R11. "... that -

- (a) elected members who have a non-financial interest in a matter before a local government be encouraged, through appropriate training and guidelines from the Department of Local Government, to refrain from -
  - (i) participating in the decision making procedures relating to the matter;
  - (ii) voting on the matter; and
  - (iii) having anything to do with the matter in their roles as elected members;
- (b) at a council or committee meeting the elected members be given the power to decide whether a fellow member, who has declared a non-financial interest in a matter, should be entitled to participate in the discussion, or to vote, on that matter;
- (c) elected members who have dealings with their local government, or who have an interest, whether financial or not, in a matter before the local government should, in relation to that matter -
  - (i) be restricted in their access to the local government's employees and elected members; and

- (ii) have no greater right than a member of the public to obtain access to documents, or to use the resources of the local government; and
- (d) appropriate aspects of codes of conduct be enforceable either through the *Local Government Act* or through an appropriate local law, such as a local government's Standing Orders."

[Para 8.5.80]

*Comment*

This recommendation covers a number of issues in the area of interests, particularly of a non-financial nature. The Inquiry Report findings were scathing in criticising Council for the manner in which it dealt with such matters.

This situation was realised by Council in recent times and, therefore, non-financial interest provisions have been reinstated in Council's Standing Orders Local Law to ensure the probity of Council's elected members and staff into the future. Council's Codes of Conduct should also be reviewed in the short term to include "undue influence" provisions. In addition, it is intended to include this area of great importance in the briefing session to be conducted following the reappointment of an elected Council.

However, the recommendation raises a number of issues which are currently not covered in legislation and which would add to the security of the interest provisions if included in the Act.

Therefore, it is considered that a combination of legislation and education is the most effective manner in dealing with conflict of interest issues.

*Recommendation 12*

R12. "... that the Council be dismissed."

[Para 11.5.23]

*Comment*

While this is a process which is external to Council influence, it is considered appropriate to inform the Minister of the review process currently in place in respect of Council Wards and representation, for consideration in determining a date for the next Council elections, in the event that Council is dismissed.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

N/A

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

Nil

**8.2 (SCM1\_5\_2000) - REPORT OF THE INQUIRY INTO THE CITY OF COCKBURN - FINDINGS RELATING TO CHIEF EXECUTIVE OFFICER - ROD BROWN (1335) (DMG) (ATTACH)****RECOMMENDATION**

That Council:

- (1) receive the report from the Chief Executive Officer (CEO) in response to the findings against him in the Report of the Inquiry Into the City of Cockburn; and
- (2) further consider its position in respect of the CEO's Report.

**COUNCIL DECISION****Background**

The Report of the Inquiry into the City of Cockburn concluded a number of findings attributed to previous and currently suspended Councillors, as well as two employees, including the current CEO, Rod Brown.

Mr Brown has subsequently prepared a response to the findings relevant to him as a means of explaining the circumstances surrounding those matters.

**Submission**

N/A

**Report**

The response to the Inquiry findings prepared by Mr Brown, relates only to those areas of the Inquiry Report which adversely implicate him.

The purpose of his response is to clarify those matters where he believes he has been unfairly criticised and explain in greater detail, the reasons for his actions.

Much of Mr Brown's report is dedicated to clarifying issues raised in the Inquiry Report, which he believes justifies the manner in which he dealt with them and demonstrates that he did not act improperly.

His report also acknowledges that some administrative practices of the City of Cockburn, could be improved and these will be addressed in the very short term. The development of improved organisational procedures, particularly in the handling of Ombudsman enquiries, will receive high priority.

However, the main intent of the response is for Mr Brown's point of view to be clearly and publicly stated and as an explanation to those allegations which the Inquiry findings have levelled against him.

Council may also wish to utilise the opportunity to make comment on the CEO's Report, as it is responsible for the overall performance of the CEO in the discharge of his duties.

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

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

Nil

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

Nil

## **9. RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

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

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



## 10. CLOSURE OF MEETING