

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 APRIL 2016 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 14 APRIL 2016 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Mrs C Reeve-Fowkes	-	Deputy Mayor
Mr K Allen	-	Councillor
Mrs L Sweetman	-	Councillor
Mr S Portelli	-	Councillor
Ms L Smith	-	Councillor
Mr S Pratt	-	Councillor
Mr B Houwen	-	Councillor
Mr P Eva	-	Councillor

IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr R. Avar	-	A/Director of Governance & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr C. Sullivan	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Ms S Roe	-	Communications & Marketing Co-ordinator
Mr J Ngoroyemoto	-	Governance & Risk Co-ordinator
Mrs L. Jakovcevic	-	PA – Directors, Planning & Development and Engineering & Works and

1. DECLARATION OF MEETING

The Presiding Member formally declared open the 14 April 2016 Ordinary meeting of Council and in so doing welcomed everyone.

The Presiding member acknowledged the Nyungar People who are the traditional custodians of the land we are meeting on and I pay respect to the Elders of the Nyungar Nation, both past and present and extend that respect to Indigenous Australians who are with us tonight.

Before moving to the agenda proper the Presiding Member made the following statements:



I welcome Mr Rob Avar, A/Director Governance & Community Services, Mr Doug Vickery, Manager Infrastructure Services and Ms Sophie Roe, Marketing & Communications Co-ordinator to tonight's meeting.

Recent Community Events and Achievements across our City

The following community events during the last four weeks clearly demonstrate the vibrancy that is Cockburn:

12 March – Summer Nights Concert – ‘Mental as Anything’ supported by ‘Some Like It Yacht’.

13 March – 20th Anniversary Coogee of the Jetty to Jetty Swim co-ordinated by the Cockburn Masters Swimming Club. A record number of participants enjoyed great swimming weather as did the spectators.

13 March – the inaugural Cockburn Central Billycart Festival at Cockburn Central co-ordinated by the Cockburn Town Centre Association.

16 March – Hello Baby Event in Manning Park attracted a considerable number of parents with babies and toddlers, grandparents, carers out enjoying the fresh air while gaining information from a number of service providers.

16 March – the laying of the accessible beach matting at Ngarkal Beach, Port Coogee to allow people using mobility aids to get to the water's edge more easily.

18 March – the Coolbellup Community Association conducted a very successful photographic competition using a variety of themes to showcase their community. Councillor Pratt was a member of the judging panel.

19 March – Cockburn's Got Talent – Heat 2 was conducted at the Cockburn Youth Centre with another outstanding performance attracting a large audience.

21 March – Community Health & Harmony Fair held at the Cockburn Integrated Health & Community Centre as a part of Harmony Week attracted a large number of visitors and allowed the City to showcase the facility itself.

1 April – Healthy Lifestyle Expo was hosted by the City of Fremantle and again proved to be highly successful. The event is rotated between the Cities of Fremantle, Melville & Cockburn.

3 April – Coogee Beach Festival was another outstanding success both on the ‘Green’ and down on the beach.

6 April – Lakeland Senior High School



8 April - Show Off Twelve Art Exhibition was officially opened with 57 exhibitors from across Cockburn displaying their artwork at the Memorial Hall in Hamilton Hill.

13 April – the National Growth Area Alliance (NGAA), to which the City of Cockburn is a member, launched the 'Fund our Future' campaign yesterday based on the following:

- 5 million people in fast growing outer suburbs;
- 3 priorities:
 - Roads;
 - Public transport and health; and
 - 1 solution – a dedicated national infrastructure fund

Five million residents in fast growing outer suburbs across the country need and deserve the same level of infrastructure which is available to other Australians.

The City's Community Connect South project is an integral part of the NGAA campaign.

30 April – Harvest Hoo Haa is to be held at Harmony Oval between 10.00am and 2.00pm and will feature the final of Cockburn's Got Talent, the Get Connected Expo and an extravaganza of entertainment and food.

Meg Rogers, a volunteer at Native ARC and the City's 2015 Inspirational Volunteer of the Year has been chosen as one of the top ten finalists of the WA Volunteer of the Year People's Choice Award. Voting for the Award closes on 30 April. I encourage you to go on-line and support Meg.

Our congratulations are extended to Don and Peggy Watson of Bibra Lake as they celebrate their 60th wedding anniversary today. I was in touch with them today to convey the City's best wishes and to thank them for their contribution to the Cockburn community. Don Watson is a former Inspirational Volunteer of the Year.

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 (OCM 14/4/2016) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)

❖ Cllr Kevin Allen – Conflict of Interest.

5 (OCM 14/4/2016) - APOLOGIES AND LEAVE OF ABSENCE

❖ Dr. Chamonix Terblanche – Leave of Absence

❖ Mr Don Green Director of Governance & Development – Apology

6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

7 (OCM 14/4/2016) - PUBLIC QUESTION TIME

Mr Ron Blake – Coogee

Item 19.1 – Coogee Beach Reserve Dogs on Leads

Q1. Is Council aware in 2015 that Cllr Allen moved a motion to allow dogs on Coogee Beach. A petition of over 900 signatories opposed the proposal and the motion was not proceeded with; it was withdrawn.

Q2. Is Council aware that the grass reserve is where Coogee Beach commences. The Annual Coogee Beach Festival is held on the grass reserve. The grass reserve extends to North Coogee, north and south of the Coogee Beach café, up to the tennis courts. It also includes the grass area adjacent to the surf club.

Q3. Is Council aware under the current proposal, dogs will be allowed in the formal children's playground area and dogs will be allowed in the beach cafes, where they are now also prohibited.

Q4. Is Council aware that families including those on picnics and beach goers now enjoy the facilities of barbeque and shelter areas, dressing sheds and toilets. Dogs should not be sniffing around the barbeques, children's playground area and in and around the dressing shed.

A.1-4 As a point of clarification, the agenda has been slightly modified to more clearly reflect exactly what is going to happen.

In summary there is a very small slither of land currently north of Powell Road where the car park is and the small grassed area. That is the only area that will change with regards to dogs. All the other areas including the reserve north of Powell Road and south of Powell Road



that you mentioned will remain as they are, that is, dogs are not permitted in those areas.

Q5. Will the map of the area be available sometime to show the area completely where the dogs will be allowed.

A5. Yes, that will a very large community consultation process. This will be extensively advertised and plans showing exactly where dogs are and are not allowed.

Q6. I take it dogs are not permitted on the sand area of the beach.

A6. The current circumstances are, in the reserve area north of Powell Road, the beach area does not allow dogs on leads in that area, that will remain. There is no change here.

Q7. You are saying there are no dogs allowed anywhere north of Powell Road, but they are allowed south of Powell Road at the moment.

A7. The status of the beach area south of Powell Road will remain as it is currently.

8. CONFIRMATION OF MINUTES

8.1 **(MINUTE NO 5754)** (OCM 14/4/2016) - MINUTES OF THE ORDINARY COUNCIL MEETING - 10 MARCH 2016

RECOMMENDATION

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday 10 March 2015, as a true and accurate record.

COUNCIL DECISION

MOVED Deputy Mayor C Reeve-Fowkes SECONDED Cllr B Houwen that the recommendation be adopted.

CARRIED 9/0

Reason for Decision

This item was inadvertently missed when the agenda was originally prepared.



9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10 (OCM 14/4/2016) - DEPUTATIONS AND PETITIONS

- Sharnie Stuart, Town Planner/Project Coordinator, CADDs Compliance and Kellie Buckle, Kelete Theatre Company Operator, in relation to Item 14.4 – Retrospective Change of Use from Private Recreation to Health Studio.
- Camille Clarke, Planner, Rowe Group, in relation to item 14.2 – Reconsideration of Planning Application Retrospective Change of Use – Single House to Holiday Home.

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 14/4/2016) - COUNCIL MATTERS

AT THIS POINT, TIME BEING 7.43PM, THE FOLLOWING ITEMS WERE DEALT WITH “EN BLOC”.

13.1	14.1	15.1	18.1
13.2	14.3		

13.1 (MINUTE NO 5755) (OCM 14/4/2016) - MINUTES OF THE AUDIT & STRATEGIC FINANCE COMMITTEE MEETING - 17 MARCH 2016 (026/007) (S DOWNING) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Audit and Strategic Finance Committee Meeting held on Thursday, 17 March 2016, and adopt the recommendations contained therein.



COUNCIL DECISION

MOVED Clr S Portelli SECONDED Clr S Pratt that the recommendation be adopted.

CARRIED 9/0

Background

A meeting of the Audit and Strategic Finance Committee was conducted on 17 March 2016.

Submission

N/A

Report

The Audit and Strategic Finance Committee received and considered the following items:

1. Risk Management Information Report
2. Local Government Compliance Audit Return 2015
3. Financial Audits – External Audit Services
4. 2015/16 External Audit Plan

Strategic Plan/Policy Implications**Leading & Listening**

- A responsive, accountable and sustainable organisation.
- Manage our financial and infrastructure assets to provide a sustainable future.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

Budget/Financial Implications

As contained in the Minutes

Legal Implications

As contained in the Minutes



Community Consultation

N/A

Risk Management Implications

The Audit and Strategic Finance Committee is a formally appointed Committee of Council and is responsible to that body. The Audit and Strategic Finance Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any delegated financial responsibility. The Audit and Strategic Finance Committee does not have any management functions and is therefore independent of management.

Therefore, if any Committee recommendations of the Audit & Strategic Finance Committee are not adopted or deferred by Council, officers will be unable to proceed to action the recommendations contained within the Minutes.

Attachment(s)

Minutes of the Audit & Strategic Finance Committee Meeting 17 March 2016.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.2 (MINUTE NO 5756) (OCM 14/4/2016) - DRAFT STRATEGIC COMMUNITY PLAN 2016 - 2026 (021/004; 021/009) (M TOBIN) (ATTACH)

RECOMMENDATION

That Council endorse the proposed Draft Strategic Community Plan 2016-2026 to be released to the community for comment.

COUNCIL DECISION

MOVED Clr S Portelli SECONDED Clr S Pratt that the recommendation be adopted.

CARRIED 9/0



Background

The Strategic Community Plan review was last conducted in 2012 and as part of the process of consultation with the community, a draft plan was advertised. This worked well as it was one method of providing timely response and acknowledgement of the community feedback obtained through the consultation methods. Since then, the community engagement framework has been adopted and this includes keeping the community informed so it is desirable to inform them that a draft plan has been developed.

Submission

N/A

Report

The current community engagement model includes a cycle of three ways of engaging with the community – informing; consulting; and actively participating. This model operates continuously so whilst we informed them at the beginning of the Strategic Community Plan review process and then moved on to consultation with active participation by around 2,000 community members, we should now return to the informing component and inform the community about our draft plan. This enables them to make any comment or seek further information before the plan is final.

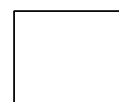
By advertising the draft Strategic Community Plan 2016 – 2026, Council will also have the opportunity to gather further feedback and make changes before producing a final plan for Council consideration. If a majority of the feedback is positive and nil or minor changes are required, the draft plan will reflect community validation of the Council's objectives.

As the Corporate Business Plan, Long Term Financial Plan and Workforce Plan hinges on the acceptance of the priorities and objectives listed in the draft Strategic Community Plan, it is important that enough time is allowed for further community input. Around 2 – 3 weeks is an ideal period to allow for community feedback. Advertising lead times and time for consolidation of comments and changes to the draft, require endorsement of the draft plan at the April OCM.

Strategic Plan/Policy Implications

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.



- Effective advocacy that builds and manages relationships with all stakeholders.
- A responsive, accountable and sustainable organisation.
- Manage our financial and infrastructure assets to provide a sustainable future.

Budget/Financial Implications

The budget for Strategic Community Plan community engagement allows for the cost of advertising of the draft Strategic Community Plan 2016 – 2026 for further public comment.

Legal Implications

Regulation 19C of the Local Government (Administration) Regulations 1996 refer.

Community Consultation

Before undertaking consultation with our the community on this plan, City officers reviewed feedback from sources such as the annual Community Perception Survey, our annual Business Perception Survey, recent Customer Satisfaction Results and the community engagement workshop “Community Conversation” conducted by the City’s Community Development Unit last year.

This year the City launched an online method of community consultation, branded as “Comment on Cockburn” which gathered feedback through an online portal and Facebook. There were over 1000 site visits to Comment on Cockburn. Face to face “Comment on Cockburn” consultation workshops were also held which involved community members, reference group members and associates, young indigenous people and some City of Cockburn employees (most of who live locally).

The outcomes of this consultation are what have been considered in developing the strategic objectives

Risk Management Implications

If Council do not endorse the draft plan for advertising at this meeting, there will be insufficient time to inform the community of a draft before the final plan is presented to Council for adoption. If the community do not see a draft plan and are presented with a final plan only, they may believe they have not been adequately consulted. By not informing



them at this stage of the process, Council may not be acting in the spirit of its community engagement framework.

Deferral of advertising a draft may result in Council not meeting its legislative requirement to have a new Strategic Community Plan adopted by the end of the financial year 2015/16.

Attachment(s)

Draft Strategic Community Plan 2016 – 2026.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (MINUTE NO 5757) (OCM 14/4/2016) - REQUEST FROM DEPARTMENT OF FIRE AND EMERGENCY SERVICES – COOPER STREET RESERVE (110/148) (C CATHERWOOD / K SIM) (ATTACH)

RECOMMENDATION

That Council

- (1) acknowledge a request from the Department of Fire and Emergency Services (“DFES”) to facilitate the provision of land for a replacement Career Fire and Rescue Service (“CFRS”), to be excised from Reserve 45447 Cooper Road, Cockburn Central;
- (2) advise DFES, Department of Planning and Department of Lands that as the land represents public open space, the Council is required to consult with its community on this proposal as per Government Lands Operational Policy 4.1.5 – Section 152 Public Recreation Reserves;
- (3) before consulting with its community, Council require a formal agreement with DFES in order to solidify the offer made by DFES to effectively offset the land excision they propose. Council requires the offer to include the following:
 1. The Fire Station building and all associated improvements at Lot 727 Hammond Road, Success be removed.
 2. Lot 727 Hammond Road Success be rendered suitable for netball courts and car parking.

3. Lot 727 Hammond Road, Success then be returned to the Crown as a reserve for recreation, and included in the broader Success Reserve (Reserve No. 7756).
 4. The balance portion of Reserve 45447 be landscaped to a standard acceptable to the immediate community and at DFES cost.
- (4) receive a report back following community consultation in order to make a final decision on the proposal.

COUNCIL DECISION

MOVED Clr S Portelli SECONDED Clr S Pratt that the recommendation be adopted.

CARRIED 9/0

Background

An approach has been made to the City of Cockburn ("the City") by the Department of Fire and Emergency Services ("DFES") regarding a portion of the Cooper Street Reserve to locate a replacement fire station. Cooper Street Reserve is a piece of public open space, and best described as a passive natural reserve which provides separation between the residential area and the adjoining industrial area.

The new station is intended to replace the fire station (currently vacated) at Lot 727 (365) Hammond Road, Success adjacent to the Success Recreation Facility. This report explains the proposal, and recommends a path forward to Council.

Submission

DFES has approached City staff previously, as referred to in their correspondence formalising the request (see Attachment 1) to gain an understanding of the process required to vacate the current landholding and obtain a new landholding for a fire station.

DFES are aware the process is administered by the Department of Lands and will be subject to community consultation. In their submission they have offered to upgrade the remainder of the Cooper St Reserve for the adjacent residents. They have also acknowledged the existing site would need to be surrendered back to the Crown. There is potential for the existing site to be subject to a management order with the City given the site is bordered on three sides by the



Success Reserve. This would be a requirement of the City, for inclusion of the land into Success Reserve.

Report

Consideration of this request must adhere to the Department of Land's Operational Policy 4.1.5 'Section 152 Public Recreation Reserves' (Attachment 2).

The Department of Lands in formulating their policy take into account the fact that reserves such as Reserve 45447 are given up by the original subdivider with the expectation that they will be maintained as public open space in perpetuity. This is a general expectation that the City holds also.

In respect of the proposal at hand, Reserve 45447 was created when the land bounded by Cooper and Poletti Road, Beeliar Drive and the industrial area on the western boundary was approved for a 118 lot residential subdivision in 1997. This created the estate and associated public open space areas, with Reserve 45447 (the topic of this report) highlighted in the image below:



Reserve 45447

Effectively in this situation it is the State Government seeking the land for a new public purpose (replacement fire station), and it is also the State Government who need to ultimately balance the issue of the land being part of the public open space network, or in other words land that is to service the needs of the local residents. DFES has provided an initial concept plan to indicate how the development could be configured on the site. This is provided at Attachment 3.

The City is cognisant of this issue, and has made it clear how important community consultation will be on the proposal.

Before embarking on a public consultation process, it is also important to consider the broader community betterment offered by DFES. In this respect the offer has been made that:

1. The existing Fire Station building and all associated improvements at Lot 727 Hammond Road, Success be removed;
2. Lot 727 Hammond Road Success be rendered suitable for netball courts and car parking;
3. Lot 727 Hammond Road, Success then be returned to the Crown as a reserve for recreation, and included in the broader Success Reserve (Reserve No. 7756);
4. The balance portion of Reserve 45447 be landscaped to a standard acceptable to the immediate community and at DFES cost.

The existing site (Lot 727) and its relationship with the Success Sporting Reserve, is shown below:



Success Sporting Facility Reserve 7756

The consultation as a minimum will see the City writing to all residents in the subject estate near Reserve 45447. This letter will include the offer of a Council organised public meeting so that DFES can present their concept building, landscaping and operational plans for general discussion. This would provide additional information to residents, to enable them to be fully informed on the proposal and make a fully informed submission back to the Council. Council would then consider the proposal for a final decision.



The Department of Lands policy stipulates that where it is contemplated that a public recreation reserve be cancelled or substantially reduced that the proposal be signposted at the reserve location, advertised in a local newspaper and that nearby landholders are canvassed by mail. These actions are designed to gauge the level of ratepayer support for the proposal.

DFES in their letter to the City note that their proposed facility will require approximately 6000 m² from the current area of 8739 m² at Reserve 45447. DFES also state that they continue to explore all potential options including freehold land to find a replacement site for the Hammond Road site. It is acknowledged by DFES that there is no guarantee that the community consultation will allow the City to request the excision from Reserve 45447 or indeed that the Department of Lands will transfer the land to DFES on the terms sought. On balance it is believed that given the important community benefit derived from DFES having this facility, the community consultation by the City on behalf of DFES is warranted.

However, it is recommended that Council not embark on this until a full agreement is secured, to secure the offer made by DFES, as this would need to be part of the basis for Council and the community to consider the broader potential benefit (or not) of the proposal.

Should the proposal not proceed, such formal agreement would lapse. This is the recommendation to Council.

Strategic Plan/Policy Implications

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.
- A culture of risk management and compliance with relevant legislation, policy and guidelines.

A Prosperous City

- Sustainable development that ensures Cockburn Central becomes a Strategic Regional Centre.
- Investment in the local economy to achieve a broad base of services and activities.

Budget/Financial Implications

There are administrative costs associated with considering this request that will be met by internal resources.



Legal Implications

Department of Land's Operational Policy 4.1.5 'Section 152 Public Recreation Reserves'.

Community Consultation

Community consultation is imperative before any recommendations should be made to the Department of Lands. The land is currently vested as a local public open space reserve and is adjacent to a small residential development served by this reserve.

Risk Management Implications

All relevant risks have been taken in to account in generating this report and recommendation to Council.

A key community risk will be the delay in replenishing a new fire station for the district.

Attachment(s)

1. Request from DFES
2. Department of Land's Operational Policy 4.1.5 'Section 152 Public Recreation Reserves'
3. Concept Site Plan

Advice to Proponent(s)/Submissioners

DFES have been advised of the report going to the Ordinary Council Meeting 14 April 2016.

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

Nil.

- 14.2 (MINUTE NO 5758) (OCM 14/4/2016) - RECONSIDERATION OF PLANNING APPLICATION RETROSPECTIVE CHANGE OF USE – SINGLE HOUSE TO HOLIDAY HOME (STANDARD) – LOCATION: 3 (LOT 128) PERLINTE VIEW, NORTH COOGEE – OWNER: HENG PROPERTIES HOLDING PTY LTD – APPLICANT: ROWE GROUP (6015354 & DA15/0751) (P ANDRADE) (ATTACH)**

RECOMMENDATION

That Council

- (1) pursuant to S31 of the State Administrative Tribunal Act 2004 (WA), affirm the decision to refuse to grant planning approval for



a Retrospective Change of Use (Single House to Holiday Home Standard) at 3 (Lot 128) Perlinte View, North Coogee for the following reasons:

1. Approval of the proposal is likely to adversely impact on amenity of the current and future residents in the locality as per Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.
 2. Approval of the proposal would not constitute orderly and proper planning as per Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.
 3. Approval of the proposed development would set an undesirable precedent.
- (2) notify the applicant and State Administrative Tribunal of Council's decision.

COUNCIL DECISION

MOVED Cllr K Allen SECONDED Cllr S Pratt that Council:

- (1) grant retrospective planning approval for the change of use from Single House to Holiday Home (Standard) at Lot 128 (No. 3) Perlinte View, North Coogee subject to the following conditions:

Conditions:

1. That approval for the Holiday Home (Standard) is valid for twelve (12) months only from the date of approval. After this time, if you wish to continue using the dwelling as a Holiday Home, a new development application will need to be submitted to the City for determination.
2. The approval for the holiday home (standard) is subject to the revised and implementation of the revised property management plan and code of conduct as contained in attachment 3 and 4.
3. The Code of Conduct is to be converted into a sign that is displayed within the premises at all times, to the satisfaction of the City. .
4. An external sign fronting Perlinte View to *display* the contact details of both the manager and landowner, to the satisfaction of the City. The sign is to clearly advise neighbours who they can contact should there be issues.

Footnotes:

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, with any requirements of City of Cockburn Town Planning Scheme No. 3, or the requirements of any other external agency.
 2. Development undertaken in a manner not consistent with this planning approval represents an offence which may be prosecutable under the requirements of City of Cockburn Town Planning Scheme No. 3 and Planning and Development Act 2005.
 3. An applicant has the right to seek a review of this decision, including associated conditions, via the State Administrative Tribunal within 28 days of being advised of this decision.
 4. In regards to condition 1, you are advised that any extension of this approval is dependent on how the development affects neighbouring properties within these 12 months.
 5. In regards to condition 3, you are advised a sign licence is required to be submitted to the City. Details of the sign's sizes, locations and wording are to be provided.
- (2) notify the applicant, adjoining landowners and State Administrative Tribunal of Council's decision.

CARRIED 5/4

Note: Mayor Howlett, Deputy Mayor Reeve-Fowkes and Cllrs, Eva and Sweetman requested their vote against the decision be recorded.

Reason for Decision

Subject to a trial period and appropriate conditions of planning approval, the proposed development can be undertaken in a manner which does not adversely impact the amenity of nearby landowners or the locality generally.

As we have heard this evening in the applicant's deputation, they are happy with that. The reduction of guests from 6 to 4 and a reduction of



guests and visitors from 4 to 2 and installing security cameras, guests have been reduced to 2 only. Visitors are not permitted after 10.00pm and not before 8.00 am.

Background

The subject site is located in Perlinte View North Coogee and comprises of a two storey terrace style single house. The dwelling has rear garage access from Orsino Boulevard via an easement across adjoining lots.

The City received a development application for the retrospective change of use of the dwelling from a Single House to Holiday Home - Standard (DA15/0751) including a Management Plan and Code of Conduct. The application was determined by Council at its ordinary meeting held on 10 December 2015, the following decision was made:

'That Council

- (1) *refuse to grant planning approval for a Holiday Home (Standard) at 3 (Lot 128) Perlinte View, North Coogee for the following reasons:*
 1. *Approve of the proposal is likely to adversely impact on amenity of the current and future residents in the locality as per Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
 2. *Approval of the proposal would not constitute orderly and proper Planning as per Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
 3. *Approval of the proposed development would set an undesirable precedent.*
- (2) *notify the applicant and those who made a submission of Council's decision.'*

Subsequent to Council's decision, the applicant exercised their right to apply for a review of the decision by the State Administrative Tribunal (SAT). In response, the City had one mediation session with the applicant where the following orders were made:

1. *'The respondent is to provide a revised proposal to the respondent by 14 March 2016.*



2. *Pursuant to s 31 of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision at its meeting of 14 April 2016.*
3. *By 20 April 2016 the respondent must file with the Tribunal and give to the applicant a statement of its decision upon reconsideration.*
4. *By 27 April 2016:*
 - (a) *if the applicant is content with the respondent's decision upon reconsideration, then the applicant must file with the Tribunal and give to the respondent a statement seeking leave to withdraw the proceeding; or*
 - (b) *if the applicant is not content with the respondent's decision upon reconsideration, then the applicant must file with the Tribunal and give to the respondent a statement of the aspects of the respondent's decision upon reconsideration which the applicant contests in the proceeding with brief contentions in relation to each aspect.*
5. *If the applicant seeks leave to withdraw the proceeding, then the respondent must, within two working day of receiving the applicant's statement seeking leave to withdraw the proceeding, file with the Tribunal and give to the applicant a statement of whether the respondent consents to leave being granted to the applicant to withdraw the proceeding and any consequent orders the respondent seeks.*
6. *The proceeding is adjourned to a further directions hearing at 12 pm on 6 May 2016 in order to it the reconsideration.'*

Therefore, based on the above SAT orders, Council is requested to reconsider its previous decision of refusal, based on a revised proposal.

Submission

The revised proposal for the retrospective Change of Use (Single House to Holiday Home - Standard) consists of:

- A minimum of 4 night stay for guests (previously 3 nights minimum);
- Accommodation for up to 4 guests (previously 6 guests);
- Guest parking restricted to two cars and they are to park in the garage (previously no restriction on the number of guest vehicles);
- A maximum of 2 visitors at any one time (previously 4 visitors);



- No visitors between 10pm and 8am (previously no restriction on visiting times); and
- Installation of security cameras to the rear and front of the property to monitor the guests (not previously included).

The use is intended to be managed as per the submitted revised property Management Plan and the Code of Conduct to be signed by guests (attachment 3 and 4).

The applicants' justification letter is summarised as follows:

- The intensity of the use is now equal to that of a single house;
- The proposed land use is not permissible within any other zone within the Scheme area;
- The proposal is consistent with the provisions of Bulletin 99 as the subject site is located within close proximity to high amenity areas such as Coogee Beach and the Port Coogee Marina;
- Sufficient car parking is provided for guests and visitors; and
- A suitable Property Management Plan and Code of Conduct have been prepared and proposed for the Holiday Home.

Report

Statutory Planning Framework

City of Cockburn Town Planning Scheme No. 3 (TPS 3)

Under TPS 3 and the Port Coogee Local Structure Plan (LSP) which was approved under the TPS, the lot is zoned 'Residential R80'. The use is classed as a 'Holiday Home (Standard)' which as per the Land Use Table (Table 1) is an 'A' use in a residential zone. This means the use is not permitted unless the local government has exercised its discretion and granted planning approval after being advertised.

Holiday Home (Standard) is defined as:

"a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit)."

Western Australian Planning Commission (WAPC) Planning Bulletin 99: Holiday Homes – Short-stay use of residential dwellings

The WAPC bulletin is a guideline which recommends the following:

- That initial approvals be granted for one year and renewed on a three to five year basis for certainty and flexibility reasons;
- That non-problematic holiday homes should be considered for longer approvals;



- That holiday homes be on freehold titled lots; and
- Be preferably within an identified tourism orientated area and/or next to areas of high tourism amenity and close proximity to key attractions such as the beach, town centre or rural areas.

With regards to this document and the revised development proposal, the following points are provided:

- The applicant continues to seek the Holiday Home on a permanent basis – not temporary.
- The lot is technically a freehold lot, however, is burdened by a significant right of access easement. The lot shares its access with a minimum of 19 other residential dwellings and is further accessible to the surrounding general public.
- The lot is not defined within a tourism precinct however, within the Port Coogee vicinity.

It should be noted that Council has no Local Planning Policy addressing the development requirements or standards for Holiday Homes however one is being drafted.

Community Consultation

This revised plan has not been advertised to neighbours. It is considered that this revised plan would be unlikely to appease neighbours' concerns. The applicant understood that the revised proposal would not be re-advertised but their initial concerns will be taken into account.

Management

There are major concerns that the revised management plan will not necessarily resolve the issues which impact on the amenity of neighbours. It should be noted that potentially affected neighbouring landowners were previously approached by the operators of the holiday home to discuss the management of the holiday home. This did not abate problems, hence their objections to the original proposal.

It would be difficult for the City to ensure compliance with the management plan on an ongoing basis. The City cannot effectively inspect the number of cars in and around the dwelling, check how many people are within the dwelling, for how long or what hours the visitors are leaving whenever there is a disturbance or neighbour concern. If neighbours were to experience an issue in the evening/night or on a weekend, the City would be unable to easily police this and by the time the situation could be investigated, guests could have vacated the premises.



The issue of the owners/managers not being on-site or in close proximity to the dwelling remains an issue, regardless of the revised management plan. Firstly, if there is an issue, the owner may not be available or it may be impractical for them to attend to the matter which is a major issue. This differs to bed and breakfast type uses where the owner resides in the dwelling or a well-designed tourist development which usually employs an on-site manager or caretaker to resolve issues which could negatively impact the amenity of the area.

Appropriateness of Use

If approved, guests could stay a minimum of four (4) nights which has been increased from three (3) nights. Even with this increase, in a one week period, there could be up to eight (8) different guests entering the premises at any given time. Concerns raised by adjoining landowners relate to the impacts on amenity and enjoyment of the residential area. This proposal, regardless of the revised management plan, if approved would continue to create a scenario of detachment to the locality. The operation of a holiday home can result in the dwelling being used at irregular times which may make it difficult for adjoining landowners to distinguish when someone is home or whether someone is meant to be there.

Vehicle Parking

The revised management plan restricts the number of guest vehicles to two (2) and the inclusion of security cameras which may assist. However, the applicants would need to be nearby in order to immediately rectify any issue which may not be practical. The management of vehicles in and around the site is proposed to be based on good-will of guests and camera surveillance which is not ideal.

Noise

The number of visitors/guests permitted and visiting hours in this revised proposal have been restricted but again, policing this would be very difficult. As discussed in the report relating to the original proposal, it is expected that the proposal will see a heightened generation of noise, compared to that of a single residential dwelling. It would be typical that holiday makers will use the dwelling differently to permanent residents. As discussed above, neither the City nor the owner are likely to be able to attend to any complaint immediately, therefore causing potential amenity impacts on neighbours.

Temporary Approval

It would be open to Council to consider approval of the proposal on a temporary basis, for example 6 or 12 months. However, based on the reasons explained in this report regarding off-site management and difficulties in ensuring compliance, a temporary approval is not appropriate and is likely to result in amenity impacts for neighbours during any temporary approval period.

Conclusion

The subject dwelling is in a residential area and is in close proximity to neighbouring dwellings given the terrace style design incorporating two-storey boundary walls on both sides and rear laneway garage access. The dwelling and neighbouring dwellings were designed as single dwellings for permanent residential use. They were not designed as holiday homes or short-stay tourism units and conversion of the subject dwelling to a holiday home has the potential to cause unacceptable amenity impacts to neighbours. Whilst the revised management plan that has been lodged to support the proposal may appear to address some issues, it is practically very difficult to ensure compliance with the plan given there is no on-site management of the premises.

It is therefore recommended that Council uphold its previous decision to refuse the proposal in accordance with the recommendation above.

Strategic Plan/Policy Implications**Growing City**

- Development that is soundly balanced between new and existing areas.
- Diversity of housing to respond to changing needs and expectations.

A Prosperous City

- Creation and promotion of opportunities for destination based leisure and tourism facilities.

Budget/Financial Implications

To date, the City has not incurred costs (in addition to staff time) in being the respondent to the application for review to the State Administrative Tribunal. There will be additional costs should the matter continue to proceed through the State Administrative Tribunal process, especially to a full hearing should legal representation be required.



Legal Implications

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

Community Consultation

N/A

Risk Management Implications

Should Council approve the proposal, it would set an undesirable precedent by way of short-term tourist accommodation being established sporadically throughout the area with no strategic basis or coordination potentially causing impacts on permanent nearby residents.

Should Council uphold its previous decision of refusal, the matter could proceed to a full hearing in the State Administrative Tribunal which will result in additional cost to the City, particularly if legal representation is required.

Attachment(s)

- 1 SAT Directions Notice.
- 2 Location Site Plan.
- 3 Property Management Plan
- 4 Code of Conduct.
- 5 Dwelling Floor Plan

Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 14 April 2016 Ordinary Council Meeting.

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

Nil.

14.3 **(MINUTE NO 5759) (OCM 14/4/2016) - ESTABLISHMENT OF A DESIGN REVIEW PANEL (052/011) (A LEFORT)**

RECOMMENDATION

That Council

- (1) establish a Design Review Panel in accordance with Clause

11.9 of Town Planning Scheme No.3 for the purposes of providing independent expert design review advice for complex planning proposals to commence in the 2016/2017 financial year (second half);

- (2) draft a Local Planning Policy outlining the type of development that will be referred to the Panel, a set of Design Principles that the panel will use for a basis for review and terms of reference for the panel;
- (3) seek expressions of interest and nominations for suitably qualified membership of the City of Cockburn Design Review Panel for a period of not less than 28 days; and
- (4) receive a further report following assessment of the expressions of interest to consider further appointment of panel members.

COUNCIL DECISION

MOVED Cllr S Portelli SECONDED Cllr S Pratt that the recommendation be adopted.

CARRIED 9/0

Background

The City of Cockburn continues to experience a high level of growth in development occurring in both greenfield and infill areas and community expectations about the quality of built form outcomes are high. To cater adequately for the growth of the City in accordance with the City's Strategic Community Plan, large scale developments which can have a significant impact on established and new neighbourhoods will become more common. Therefore ensuring that the City has a consistent and robust approach to building design should be addressed. Currently, a noticeably higher degree of design quality is observed in medium-large scale developments in areas subject to a design review process. The community values quality built form outcomes and this is evidenced in recent feedback collected by the City in its Community Perceptions Surveys where '*overall appearance of the area (including streetscapes)*' was ranked as the second most important issue raised by the community.



To encourage improved design quality outcomes across the City, Council should consider the establishment of its own Design Review Panel (DRP) which is the purpose of this report. In August 2014, the Western Australian Planning Commission published '*Planning makes it happen – Phase 2 Blueprint for Planning Reform*' including recommendations in section 3.11 Design and Development that are being progressed as Planning Reform for Better Design (PRBD). The principal initiatives included in this package are:

- Formulation of a WAPC State Planning Policy promoting the importance of quality design principles, relating to architecture, urban design, landscape and environmentally sensitive design outcomes.
- Establishment of a best practice model for design advisory panels to improve consistency by providing guidance on how State and local government should operate the panels, types of applications and other detail regarding such panels.

Whilst the policy and best practice model have not been finalised by the WAPC, the City has liaised with the Office of Government Architect to ensure that the detail contained in this report is in the spirit of what the WAPC aims to achieve in urban areas.

It should be noted that the establishment of a DRP within the City has been identified on the City's Annual Business Plan for 2015/2016.

Submission

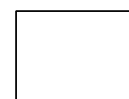
N/A

Report

Purpose

A DRP is a group of design experts who provide technical design advice relating to planning proposals. It should comprise highly experienced, multi-disciplinary built environment professionals including architects, urban designers and landscape architects.

Currently, there are three DRPs that operate within the City, for the areas of Cockburn Central Town Centre (CCTC), Port Coogee and a newly established panel for the portion of Cockburn Coast owned by Landcorp (known as 'Shoreline'). None of these are funded or administered by the City (although City staff are members of all three panels). In addition to the above panels, a new design review panel is being assembled by Landcorp for the Cockburn Central West Local Structure Plan area. Other areas within the City – outside these project



areas - including the City's revitalisation areas are not subject to a DRP process. This has resulted in a somewhat inconsistent approach to the evaluation of building design across the City. Achieving good design outcomes is equally important in the City's revitalisation areas and newer outer urban areas to those controlled by large developers (including Landcorp and Frasers).

Currently, DRPs operate in a number of other metropolitan Local Government Areas in various forms including the Cities of Vincent, Perth, Fremantle, Subiaco, South Perth, Canning, Joondalup and Melville and the Towns of Cottesloe and Victoria Park. The Town of Cambridge is also investigating the establishment of their own DRP. Each of the existing panels operates slightly differently however all with the objective to ensure good design outcomes are delivered within their respective areas.

Benefits

Engaging in design review improves the design quality of projects and can speed up the planning process, leading to the quicker delivery of high quality places. Design reviews are ideally held before a planning application has been submitted, when advice is most likely to be useful and implemented before too many project variables are set. The benefits of a successful design review panel can be enjoyed by all stakeholders including developers/applicants, local government and importantly the community as discussed below.

The Design Review Panel would provide recommendations to the Director of Planning and Development and to the Manager of Statutory Planning to assist them in the assessment of applications for planning approval.

Developers

Developers benefit from DRPs by:

- receiving independent expert advice on the design quality of their project;
- reducing project risks and expense by identifying weaknesses in the design at the earliest possible opportunity; and
- gaining a level of certainty with a proposal before investing in detailed development application drawings.

Applicants/Design Teams

Applicants and Design teams benefit from DRPs by:

- receiving constructive, independent advice from a panel (with a broad range of experience) of appropriately skilled design experts;



- receiving advice from a range of disciplines on a proposal before preparing detailed development application drawings;
- earning support for good design intentions;
- gaining suggestions for better solutions; and
- potentially faster determination timeframes if issues are resolved pre-lodgement.

Local Government

Local Government benefits from DRPs by:

- gaining independent expert design advice on evaluating proposals, which is not necessarily available internally and assists the approvals process;
- expediting the approvals process as major design issues can be resolved before a Development Application is lodged;
- gathering suggestions for changes in strategic policy based on best practice knowledge and common design issues faced by applicants;
- making clear that design quality is of importance to the City which will be an incentive for developers to engage good design expertise;
- once familiar with the local authority area, panel members will bring comprehensive knowledge of context, community, history and future direction, and support local authorities as the guardians of the community's aspirations and expectations; and
- providing Elected Members and JDAP members with the confidence to determine proposals which have been subject to a more rigorous approach to design.

Community

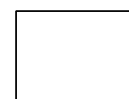
The Community benefit from design review panels by:

- the delivery of better buildings and spaces that offer a higher quality of amenity to occupants and the public;
- higher quality activity centres, places to live, and places to work;
- having confidence that the ability of developers to deliver well designed, quality buildings that are sensitive to their surroundings and minimise negative impacts on neighbouring properties and the streetscape; and
- having confidence that the City of Cockburn values well-designed quality buildings.

Costs

There is a cost associated with establishing and maintaining a DRP which depends on:

- The types of applications that the local government requires to be presented to a DRP;



- The frequency of meetings;
- The number of members who attend each meeting;
- The amount of time allocated for each meeting (preparation and attendance);
- Whether there is a fee charged to applicants;
- Staff time required for the preparation and operation of the meetings.

More detailed costing for a proposed City of Cockburn DRP is included below.

Proposed Model

Statutory Basis

Should Council resolve to establish a DRP, it is recommended that it not be established as a committee of Council in accordance with Section 5.9 of the Local Government Act. Part 10 (Clause 11.9) of Town Planning Scheme No. 3 deals with Advisory Committees and states that:

'The local government may from time to time establish Advisory Committees to advise it on any matter in the Scheme, subject to such terms of reference, procedures and conditions of office as the local government thinks fit.

The membership of an Advisory Committee may comprise of community representatives or technical experts who in the opinion of the local government may have the relevant knowledge, experience or expertise to give fair and reasoned advice on the matters referred to the Committee.

The Advisory Committee shall comprise no more than 5 members appointed by the Local Government and shall be chaired by a person elected by the Committee.

A member of an Advisory Committee shall not discuss or vote on any matter before the Committee in which that member has a pecuniary interest.

When dealing with any matter involving an application for planning approval or Structure Plans or when dealing with any other matter involving a development or land use proposal, the local government shall have due regard to any relevant recommendation of any Advisory Committee.'

It is proposed that the panel's recommendation be 'independent' (would not seek involvement from elected members or community



representatives) and 'advisory' (would not have any decision making power). It could be open for elected members to attend as observers only. The DRP does not replace Council in any way and does not necessarily represent the community's view; it would operate simply to provide technical design advice to Council and staff.

Should Council establish a DRP, a Local Planning Policy should be drafted which shall detail the process including outlining the type of development to be referred to the Panel for design review, as set of Design Principles that the Panel will use as the basis for review, terms of reference for the Panel and other relevant information. This would be presented to the DAPPS committee as per the required process.

Membership

Should Council establish a DRP, it is recommended that the panel comprise of five members requiring a minimum of three (quorum) required to consider any matter. Panel members should be highly-regarded experts in their field, have demonstrated experience in effectiveness in design review, and demonstrate appropriate qualifications and significant experience in architecture and/or urban design or landscape architecture. The panel should comprise a diversity of expertise and skills. As the intent is to broaden the level of expertise available to Council in its decision making, Elected Members and City employees should not be eligible for membership on the DRP. Elected Members could however attend meetings as observers.

Should Council resolve to establish a DRP, it would be recommended that appointment of members is undertaken by formal Council resolution through a public process seeking expression of interest.

Application Criteria

It is proposed that a City of Cockburn DRP would provide design advice on the following types of applications:

- Any proposal including a building that is 3 storeys or greater in height (above natural ground level), excluding single residential dwellings, grouped dwellings and industrial buildings;
- Any proposal with greater than 20 multiple dwellings (apartments);
- Any proposal that meets the mandatory requirement to be determined by the Joint Development Assessment Panel, excluding grouped dwellings and industrial buildings.
- Any other proposal referred to the panel by the Director Planning and Development.



The above criteria would include development across the City with the exception of the following areas which are already subject to an existing design review process administered and funded by a third party:

- Cockburn Central Town Centre - Landcorp
- Cockburn Central West – Landcorp
- Cockburn Coast (Shoreline) – Landcorp
- North Coogee (Port Coogee) – Fraser's Property Group (formerly Australand)

Based on the above criteria in the 2014/2015 financial year, there were approximately 12 planning proposals that met the above criteria and would be subject to review. These major proposals were in areas including Cockburn Central (Muriel Court LSP Area), North Coogee (South Beach Estate), Atwell (Harvest Lakes Village), Coolbellup (The Canteen Estate), Hamilton Hill and Spearwood. Most of these were in established communities.

Meeting Frequency

Holding meetings on a monthly basis is recommended as members will have a set scheduled time which will be the same time each month. If no applications are required for presentation, then the meeting can simply be cancelled. This is considered administratively easier than trying to schedule meetings on an as-needed basis trying to coordinate a time amongst conflicting member schedules. Monthly meetings are likely to have an average of 3 items presented so allowing a timeframe of 3 hours per meeting (an hour for each item) is reasonable. Members will also require an hour for preparation for each meeting. Items may only require as a minimum, presentation to one meeting, however more complex or problematic applications may require presentation to more than one meeting with an average of three.

Administration

Based on existing models currently operating including the Cities of Fremantle and Melville and Town of Victoria Park, additional resourcing for administration staff will not necessarily be required. In all three LGAs, a brief informal agenda is prepared before the meeting by planning staff which is circulated electronically to members with the plans prior to the meeting. Then, in each case, the Manager Planning or another staff member in attendance at the meeting will informally minute the meeting which will then be electronically circulated to members and applicants after the meeting with the assistance of existing administration resources which is considered efficient.



Fees for Applicants

Based on research of the other Local Governments, fees are not generally paid by the applicants to cover this service. The general consensus of other LGAs is that the development application fee (and often JDAP fee) is sufficient and any additional fee may act as a deterrent for applicants to engage with the panel which is obviously undesirable. It is therefore recommended that if Council establishes such a panel that no additional fees are sought from applicants.

Cost

The table below indicates the approximate cost based on the criteria outlined above which would need to be come from municipal funds:

Meeting Frequency	No. Members per meeting	No. Hours per meeting	No. Hours Preparation per meeting	\$ per hour	Total Cost per meeting	Annual Cost
Monthly	3-4	3	1	\$240	\$3840	\$46,080

Conclusion

As the City of Cockburn matures so does the expectations of those who live, work and recreate in the area regarding the delivery of a great built environment. Development in the City is no longer restricted to single storey dwellings in new urban growth areas in the outer suburbs. It continues to occur at a fast pace in both major project areas such as Cockburn Central and North Coogee and largely in the City's established suburbs, many of which are experiencing high levels of redevelopment as a result of the City's revitalisation strategies.

Establishing a Design Review Panel to provide independent expert architectural and design advice on large-scale and complex development that has the ability to impact the community and is seen as the next logical step for the City. It is therefore recommended that Council pursue the establishment of a Design Review Panel as per the recommendation.

Strategic Plan/Policy Implications

Growing City

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.
- Development that is soundly balanced between new and existing areas.

Leading & Listening

- A responsive, accountable and sustainable organisation.
- A culture of risk management and compliance with relevant legislation, policy and guidelines.

Budget/Financial Implications

Funding required for the proposed DRP model required from municipal funds and this should be included in Council's 2016/2017 budget. The estimated cost for 2016/2017 is \$25,000 (second half only) including panel establishment. The ongoing annual budget estimate for following years is estimated at \$50,000.

Legal Implications

N/A

Community Consultation

The City has consulted with the Office of Government Architect and the Department of Planning to ensure that the proposal constitutes best practice.

Risk Management Implications

Should Council resolve not to proceed with the establishment of a Design Review Panel, there may be a missed opportunity to improve the evaluation of building designs within the City of Cockburn.

Attachment(s)

N/A

Advice to Proponent(s)/Submissioners

N/A

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

Nil.



14.4 (MINUTE NO 5760) (OCM 14/4/2016) - RETROSPECTIVE CHANGE OF USE FROM PRIVATE RECREATION TO HEALTH STUDIO (DANCE SCHOOL) - LOCATION: 9/153 ROCKINGHAM ROAD HAMILTON HILL- OWNER: WORLDCLASS HOLDINGS PTY LTD - APPLICANT: CADDS COMPLIANCE (DA16/0100) (G ALLIEX) (ATTACH)

RECOMMENDATION

That Council

- (1) grant retrospective planning approval for a Change of Use - Private Recreation to Health Studio (Dance School), in accordance with the attached plans and subject to the following conditions and footnotes:

Conditions

1. Development may be carried out only in accordance with the details of the application as approved herein and any approved plan. This includes the use of the land and/or a tenancy. The approved development has approval to be used for a Health Studio only.
2. In the event it is proposed to change the use of the tenancy, a further application needs to be made to the City for determination.
3. Hours of operation are restricted from between 9.00am to 7.00pm Monday to Saturday.
4. The approved change of use to Health Studio is restricted to a maximum of 15 persons at any one given time.
5. The development shall be retrofitted within 30 days of the date of this approval to comply with the requirements of the Environmental Noise Assessment prepared by Lloyd George Acoustics (Ref 16023492-01c; dated 10 March 2016). The Building Permit Application is to demonstrate that all recommendations made in the Environmental Noise Assessment prepared by Lloyd George Acoustics (Ref 16023492-01c; dated 10 March 2016) have been incorporated into the proposed development.
6. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City.
7. All outdoor lighting must be installed and maintained in accordance with Australian Standard AS 4282 - 1997

"Control of the Obtrusive Effects of Outdoor Lighting".

Footnotes

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council, or with any requirements of the City of Cockburn Town Planning Scheme No. 3 or with the requirements of any external agency. Prior to the commencement of any works associated with the development, a Building Permit is required.
 2. The applicant/owner is advised that the approved change of use will generate the requirement for an Occupancy Permit to be obtained from the City's Building Services Department prior to commencement of use. In this regard, please contact the City's Building Services on 9411 3444 to confirm.
 3. The development shall comply with the requirements of the Building Code of Australia.
 4. The development shall comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed those prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 5. You are advised that all waste and recycling must be contained within bins. These must be stored within the buildings or within an external enclosure. Should an internal fitout be required, this information should be submitted for approval at the building permit stage.
- (2) advise the applicant and those who made a submission of Council's decision.

COUNCIL DECISION

MOVED Cllr L Smith SECONDED Cllr L Sweetman that Council:

- (1) as recommended

Conditions

1. Development may be carried out only in accordance with the details of the application as approved herein and any



approved plan. This schedules the use of the land and/or a tenancy. The approved development has approval to be used for Health Studio only. In the event it is proposed to change the use of the tenancy, a further application needs to be made to the City for determination.

2. Hours of operation are restricted from between 9.00am to 9.00pm Monday to Saturday.
3. Classes after 7:00pm between Monday to Saturday shall adhere to the Noise Management Plan as detailed in the Environmental Noise Assessment prepared by Lloyd George Acoustics (Ref 16023492-01c; dated 10 March 2016).
4. as recommended
5. as recommended
6. as recommended
7. as recommended
8. Within 60 days from the date of this approval (or another timeframe agreed to by the City), an acoustic wall shall be constructed along the boundary of the subject site and the adjoining residential zoned property to the west as marked in red on the approved plan to the satisfaction of the City. In this regard detailed plans for the wall shall be submitted to and approved by the City prior to construction.

Footnotes

1. to 5. as recommended

(2) as recommended

CARRIED 7/2

Reason for Decision

Noise

After receiving the advice from Lloyd George Acoustics, experts in the



field of Acoustic Engineering it is there expert opinion “that noise impacts will be minimal and, as such, limiting the hours of operation is not warranted” and “the proposal can fully comply with the Environmental Protection (Noise) Regulations 1997 up to 10pm.”

The owner has repeatedly asserted they take issues raised by the complainant very seriously and do thoroughly believe they have eliminated every single concern. They have engaged the top expert in Perth at a cost, who has designed a system of soundproofing that will ensure the studio runs effectively and silently.

The owner will also above and beyond the recommendation of Council install their own monitoring system and send weekly reports to the City of Cockburn staff ensuring they do not breach noise restrictions.

Parking

The owner has agreed to totally removing night time parking from the site.

Current Approvals

The owners currently have approval to operate fitness activities for 20 people to 9pm at night including Zumba for example which is clearly a fitness activity. Under current planning approvals the owners could lease the premises out to karate, kickboxing, martial arts and the like. Alternatively, the owner could move a manufacturing business into the site which could prove more unacceptable to the complainant, whom I have spoken to over the last few days.

Should the owner breach these regulations put in place by the City they risk no return on their additional \$75,000 risk mitigation and infrastructure investment and the stakeholders using the premises risk access to services being provided on these premises.

In terms of those stakeholders who use these services, when it comes to planning they have plans and government restraints, support and regulations, they are not shy of that. Those who do have a family member with a disability come under changes from government to government, NDIS and My Way. They are never shy of having to develop plans, personal plans, funding plans, family plans and I think the 65 people who sent me emails will follow through on the plans we put to them.

The dance studio proposal will be under the strict watch of Council with the necessary sound and parking issues mitigated presents as a win win situation for all parties concerned.



Background

Site Description

The subject site is located at 153 Rockingham Road Hamilton Hill and contains an existing building comprising 13 commercial units constructed in the mid-1990s. The site, which backs onto Paulik Way is contained within a small precinct zoned 'Mixed Business' under the City of Cockburn Town Planning Scheme No. 3 (TPS 3). The site abuts commercial development adjacent to the eastern and a portion of the western boundary also abuts two residential-zoned dwellings which front Paulik Way. The tenancy the subject of this application is Unit 9 (Strata Lot 7) which has an area of 197m² and is in the rear half of the complex.

Site History

The initial proposal for a '*Showroom/Warehouse and Factory Unit Development*' in 1995 was contentious with surrounding residents and was referred to Council four times, each time with amendments. According to the City's records, the main issues relevant to the initial application were in relation to a proposed access way to Paulik Way and the proposed front setback to Rockingham Road. The development was approved on 6 March 1996 with an average setback of 9m and with no access to Paulik Way.

Since the approval and occupation of the development, noise complaints have been received from adjoining residents dating back to 2003 in relation to this unit. Approval for a Change of Use to Private Recreation (Gym) was issued under delegated authority in September 2014. The approval was granted with specific conditions to ameliorate noise issues. It should be noted that the gym was approved to operate between 5.30pm-9.00pm Monday to Thursday subject to compliance with the *Environmental Protection Noise Regulations 1997*. Subsequent to this approval, further noise complaints were received and noise measurements were taken to determine compliance with assigned decibel levels as specified by the *Environmental Protection Noise Regulations 1997*. The City's Environmental Health Officers issued a Noise Abatement Direction which stated that the noise had to cease immediately. The gym consequently shut down and relocated.

In early February 2016 a noise complaint was received by the City regarding loud music from dance classes at Unit 9 between 7.30pm-8.30pm. The City's Environmental Health Officers informed the new owner that Planning Approval for a Change of Use was to be sought given the Dance School is considered to be a 'Health Studio', as explicitly defined in the City's Local Planning Policy 3.3.

An application for a Change of Use from Private Recreation to 'Health Studio' was lodged with the City on 19 February 2016 (DA16/0100) and a Building Permit was also lodged (BP16/0449) for the acoustic refurbishment of Unit 9 in order ameliorate noise issues. The application was submitted with an acoustic report to address noise levels as this was flagged as an issue from the outset which is the subject of this report.

Submission

The proposed retrospective Change of Use is for a Health Studio (Dance Studio) trading as *Kelete Theatre and Performing Arts Company*. The proposal comprises:

- a) Offering of dance/exercise classes for children with disabilities during daytime hours.
- b) Use of unit for commercial purposes after 7:00pm such as Zumba exercise classes.
- c) Operating hours between 9.00am to 9.00pm Monday-Saturday.
- d) The maximum number of persons proposed between 4.00pm-7.00pm is 15 persons and a maximum of 20 persons for classes after 7.00pm to 9.00pm.

An Acoustic Report was submitted as part of the application which recommends internal building alterations to mitigate noise. The following internal works have been proposed:

- a) Upgrade ceiling construction to incorporate two layers of 13mm thick fire rate plasterboards to significantly increase the attenuation of low frequency noise;
- b) New double door to be built from 44mm solid core doors minimum;
- c) All gaps will be filled and all doors sealed adequately;
- d) Windows will double glazed; and
- e) Air grilles will be installed in the new ceiling to prevent break out noise;

Further to the internal works recommended in the Acoustic Report, the applicant has included outside noise management measures to mitigate 'breakout' noise. The following measures are proposed:

- a) Cones will be places on parking bays adjacent to the adjoining residential dwelling after 7.00pm so that persons parked to the north of Unit 7 (see map attached);
- b) Persons will be verbally advised of the car parking stipulations after 7.00pm; and
- c) A sign will be erected inside the premises to further inform persons of the parking stipulations.



The following timetable has been included as part of the proposal:

Day	Studio	Time	Activity
Monday	1	4.00pm-4.45pm	Junior Musical Theatre
		5.00pm-5.45pm	Junior Tap
		6.00pm-6.45pm	Junior Jazz
	2	9.00am-3.00pm	Counselling Sessions
		4.00pm-6.00pm	Private Piano Lesson
Tuesday	1	7.30pm-8.30pm	Zumba
	2	6.00pm-7.00pm	Choir
Wednesday	1	4.00pm-4.45pm	Hip Hop
		5.00pm-5.45pm	Senior Musical Theatre
		5.45pm-6.45pm	Acting
	2	3.30pm-7.00pm	Private Piano Lessons
Thursday	1	4.00pm-5.00pm	Girls Hip Hop
		5.00pm-6.00pm	Mixed Hip Hop
	2	3.30pm-6.00pm	Singing Lessons by App
		6.00pm-7.00pm	Belly Dancing
Friday	1	Not stipulated	Studio for Hire
	2	Not stipulated	Studio for Hire
Saturday	1	9.00am-10.00am	Tiny Toddler Ballet/ Jazz
		11.00am-12.00pm	Acro
		12.00pm-3.00pm	Kelete Theatre Company production
	2	4.00pm-7.00pm	Studio for Hire

Consultation

The proposal was advertised to the owner of the two dwellings which abut the site adjacent to the western boundary who lodged an objection (as attached) which is summarised as follows:

1. Operating hours
 - The business operates till 9pm which impacts the adjoining residential development as the noise levels result in lack of sleep, stress and nuisance to residents.
2. Internal Building operations
 - The proposed alteration cannot fully insulate the vibration and echoing bass music.
3. Outside Noise Management
 - The measures as proposed cannot be fully monitored as stated with daily placement of cones.

4. Proposed timetable

- The proposal for 'Studio for Hire' on Fridays and Saturdays can result in the breach of conditions (party functions).

The objection has relevant planning merit as the issues outlined have the potential to negatively impact the amenity of the adjoining residents. Part 9 of the *Local Planning Schemes Regulations 2015* states that amenity of the locality (environmental impacts, the characters of the locality and social impacts of the development) shall be considered by Local Government when determining planning applications.

Report

Town Planning Scheme No. 3 (TPS 3)

Zoning and Use

The subject site is zoned 'Urban' in the Metropolitan Region Scheme (MRS) and 'Mixed Business' in *Planning and Development (Local Planning Schemes) Regulation 2015*.

The objective of the 'Mixed Business' zone under Part 4.2.1 (e) of TPS 3 is:

"To provide for a wide range of light and service industrial, wholesaling, showrooms, trade and professional services, which, by reason of their scale, character, operation or land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within the Centre or industry zones."

A 'Health Studio' is defined in TPS 3 as:

"Land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation".

A Health Studio is a 'P' use in the zoning table as per TPS 3. A 'P' use means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

Relevant Local Planning Policies

Local Planning Policy 3.3 – Health Studios

The purpose of this policy is to provide clarity and direction on the types of health studios within the City as well as general siting and



design criteria for such land uses and information required by the City to assess such applications which TPS 3 does not provide for. The policy encourages Health Studios and in particular dance schools to be located in areas such as commercial and industrial areas with a readily available supply of parking spaces or a capacity to create additional parking spaces.

Local Planning Policy 1.12 Noise Attenuation

This policy details the noise attenuation and noise management reporting process when undertaking development within the City of Cockburn. Provision 2.2 states that an acoustic report must accompany a Development Application where a Change of Use is proposed that may involve noise emitting activity such as entertainment or amplified music.

Issues

Car Parking

Car parking for health studios as per LPP 3.3 is at a rate of 1 car parking bay for every two persons accommodated. Based on this rate, the total number of parking bays required is 10 based on 20 persons occupying the premises at any one time. The subject unit has 3 parking bays allocated to it which would result in a shortfall of 7 parking bays. As shown on the timetable, the Health Studio predominantly operates outside of normal business hours and given there are 40 parking bays within the complex, those bays could be available for use. The application includes a letter of consent from the Strata Manager, dated 16 February 2016, for 153 Rockingham Road. In the letter of consent, the Strata Manager states that *“although each unit only has 3 parking bays allocated, the majority of our units are only one car owners and will be more than happy to provide this company with the use of more bays”*.

Based on the hours of operation and the reciprocal use of car bays outside business hours, the vehicle car parking shortfall is not expected to cause inconvenience or impact on the surrounding area.

Noise

An acoustic report was prepared by a recognised acoustic consultant to accompany the application (Attachment 4). The report outlines the noise assessment, methodology and noise modelling for the activities that occur at the premises including the noise associated with car parking and persons making a noise. The report provides a number of recommendations to attenuate and manage the noise for compliance with the assigned noise levels, as stipulated in the *Environmental*

Protection (Noise) Regulations 1997. The recommendation proposes alterations to the existing building which are predicted to mitigate noise levels for compliance with the evening assigned noise. The alterations and modifications to the building are subject to a building application which the city has received and is currently pending. Upon assessment the methodology and the modelling within the report outlines that once the building works have been completed the activities within the building should not create unreasonable noise for the neighbouring residential properties.

The report also outlines a noise management plan in order to minimise noise from car parking and persons leaving the venue after 7pm by encouraging persons to park further north and discouraging small gatherings in the car park after the last session. Specifically, the noise management plan proposes to minimise the impact from car doors closing and/or persons talking, by:

- The applicant physically placing cones on car parking spaces adjacent to the residential properties and advertising on site that all classes after 7.00pm are to utilise the car spaces towards the front of the subject lot towards Rockingham Road; or
- As an alternative measure, the applicant directs customers to park at 145 Rockingham Road.
- All customers to be advised of the car parking rules and a representatives from the studio will also be present to direct persons to the car parks to be used after 7.00pm and signage to be erected inside the premises to reinforce the parking rules.
- Signage to be erected to request that all persons are to keep noise to a minimum when attending the venue and in particular after 9.00pm in order to be considerate to surrounding residents. Signage to that effect will also be erected on the external wall by the entry door to reinforce this message.
- The main entry/exit door will be kept closed at all times during classes and access managed at end of classes to ensure the door is not propped open or left open for extended periods of time.
- The applicant will inform clients and any other persons in written and verbal forms about alternative transportation methods that are available and recommended, including car-pooling, walking, catching public transportation and cycling.

The applicant's acoustic report and noise management plan is a response to mitigate noise that may be generated from Unit 9 thereby satisfying the requirements of the *Environmental Protection Noise Regulations 1997* and aiming to alleviate noise impacts to the adjoining residential development.



The proposed internal works to ameliorate noise from the premises are extensive and will likely result in internal noise levels complying with the *Environmental Protection Noise Regulations 1997*. However, breakout noise after 7pm is still of concern. The breakout noise from persons leaving the premises (after 7pm when the permitted noise levels drop) including persons leaving the buildings and returning to vehicles, car doors opening and closing etc. is still likely to cause a negative impact on the amenity of the neighbours which is a concern. The Noise Management Plan which includes staff of the dance school, restricting access to car bays adjacent to the tenancy which are close to the dwellings or restricting vehicle parking to an adjacent site (No.145 Rockingham Road) is problematic and would be difficult to police from the City's perspective. It could cause inconvenience to other unit occupiers who may wish to access their unit when bays are restricted.

It is clear that potential noise from the proposal and its impact on the ability of the adjoining residents to enjoy their property is the key issue for Council to consider in the determination of this proposal. One option open to Council, should they seek to approve the proposal, is to restrict the hours of operation to 7pm which could be imposed through a condition of approval. However, this may prove to be problematic for the applicant who relies on funds from the commercial use of the unit after 7.00pm to fund the activities provided to the community during daytime hours. It may appease the adjoining residents who would not be subject to noise from the business after 7.00pm.

A second option for Council should they seek to support the proposal, is to issue a temporary planning approval for the premises to operate until 9pm for a set period of time (for example 3 or 6 months). Should noise levels remain compliant during the set timeframe, then the applicant could seek to have the proposal approved on a permanent basis. Should the acoustic treatment and noise management measures successfully ameliorate the noise, the amenity of the neighbour would be protected. As discussed above, the noise management plan relies heavily on making the parking bays adjacent to the unit unavailable which is not ideal. It would also become a planning compliance issue should the management plan be unsuccessful and result in amenity impacts for neighbours.

Conclusion

The use of the subject unit for a 'Health Studio' is permitted by TPS 3 and provides some activation of the area beyond normal business hours which is ordinarily a desirable outcome in terms of surveillance of the area.



However, the City acknowledges that the proximity of the complex to the adjoining western neighbours has caused them ongoing noise issues which they claim has greatly impacted on their amenity, particularly the previously approved use of the unit as a gym which was approved until 9pm. It was their expectation that no uses (light industrial or other) would be approved within the units that would generate noise on the site after 6.00pm. Whilst the applicant has proposed alterations to the building and on-site management options to address noise, ceasing the use at 7.00pm is considered to be a much more effective measure in ensuring the protection of the amenity of the adjoining residents. It is also more consistent with the original approval of the building which restricts Showroom/Warehouse/Factory Unit (Light Industry) uses to cease at 6.00pm. It is therefore recommended that Council approve the retrospective change of use of the subject site subject to conditions, most importantly restricting hours of operation from 9.00am–7.00pm Monday to Saturday.

Strategic Plan/Policy Implications

Growing City

- Development that is soundly balanced between new and existing areas.

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.
- A culture of risk management and compliance with relevant legislation, policy and guidelines.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

See Consultation section of the report above.

Risk Management Implications

Should the applicant lodge a review of the decision with the State Administrative Tribunal, there may be costs involved in defending the decision, particularly if legal Counsel is engaged. Should Council approve the proposal either on a temporary basis or without the



recommended evening time restriction, there is a risk that noise will not be effectively managed which would impact negatively on the amenity of adjoining residents.

Attachment(s)

1. Location Plan
2. Site Plan
3. Floor Plans
4. Acoustic Report & Noise Management Plan
5. Neighbour Objection

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 14 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 5761) (OCM 14/4/2016) - LIST OF CREDITORS PAID - FEBRUARY 2016 (076/001) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council adopt the List of Creditors Paid for February 2016, as attached to the Agenda.

COUNCIL DECISION

MOVED Clr S Portelli SECONDED Clr S Pratt that the recommendation be adopted.

CARRIED 9/0

Background

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

Submission

N/A

Report

The list of accounts for November and February 2016 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

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.
- A responsive, accountable and sustainable organisation.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Risk Management Implications

The report reflects the fact that the payments covered in Attachment 1 are historic in nature. The non-acceptance of this report would place the City in breach of the Regulation 13 of the Local Government (Financial Management) Regulations 1996.

Attachment(s)

List of Creditors Paid – January 2016.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.



15.2 (MINUTE NO 5762) (OCM 14/4/2016) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - FEBRUARY 2016 (071/001) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council

- (1) adopt the Statement of Financial Activity and associated reports for February 2016, as attached to the Agenda; and
- (2) amend the 2015/16 Municipal Budget by the following:

Revenue Adjustments:		
Proceeds from Sale of Asset – Lot 23 Russell Rd	Decrease	1,355,000
Reserve TF Adjustment:		
Transfer to Land Development Reserve	Decrease	1,355,000
Net change to Municipal Budget Closing Funds		\$0.00

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr S Portelli SECONDED Deputy Mayor C Reeve-Fowkes that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

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

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

- (a) details of the composition of the closing net current assets (less restricted and committed assets);

- (b) explanation for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

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

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

Local Government (Financial Management) Regulations - Regulation 34 (5) states:

- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

This regulation requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details within monthly reporting. Council has adopted a materiality threshold of \$200,000 for the 2015/16 financial year.

Whilst this level of variance reporting helps to inform the mid-year budget review, detailed analysis of all budget variances is an ongoing exercise. Certain budget amendments are submitted to Council each month where deemed necessary to do so ahead of the mid-year review.

Submission

N/A

Report

Opening Funds

The opening funds of \$13.7M brought forward from last year have been audited and the budget has been amended to reflect this final position. These compare closely to the opening funds used in the adopted budget of \$13.5M and include the required municipal funding for carried forward works and projects of \$9.7M (versus the original \$10.5M estimated in the adopted budget). The additional \$1.0M of



available municipal funding was redirected into the Roads and Drainage Infrastructure Reserve at the November 2015 Ordinary Council meeting.

Closing Funds

The City's actual closing funds of \$55.5M were \$5.9M lower than the YTD budget target. This comprises a combination of favourable and unfavourable cash flow variances across the operating and capital programs (detailed throughout this report).

The budgeted end of year closing funds currently shows \$0.39M, compared to \$0.30M last month and the \$0.36M originally adopted. The mid-year year budget review added \$0.9M to the closing position when applied during the month of February.

The budgeted closing funds fluctuate throughout the year due to the ongoing impact of Council decisions and the recognition of additional revenue and costs. Details on the composition of the budgeted closing funds are outlined in Note 3 to the Financial Statement attached to the Agenda.

Operating Revenue

Consolidated operating revenue of \$116.6M was over the YTD budget target by \$2.5M.

The following table shows the operating revenue budget variance at the nature and type level:

Nature or Type Classification	Actual Revenue \$M	Revised Budget YTD \$M	Variance to Budget \$M	FY Revised Budget \$M
Rates	(88.8)	(87.2)	1.6	(89.0)
Specified Area Rates	(0.3)	(0.3)	0.1	(0.3)
Fees & Charges	(15.6)	(15.9)	(0.3)	(22.1)
Service Charges	(1.1)	(1.1)	(0.0)	(1.1)
Operating Grants & Subsidies	(5.6)	(5.2)	0.4	(7.5)
Contributions, Donations, Reimbursements	(1.1)	(0.6)	0.5	(0.8)
Interest Earnings	(4.1)	(3.8)	0.2	(5.6)
Other Revenue	(0.0)	(0.0)	0.0	(0.0)
Total	(116.6)	(114.1)	2.5	(126.3)

The significant variances at month end were:

- Rates revenue was over the YTD budget by \$1.6M due to the processing of significant interim rating adjustments. The revenue to date has already achieved the expected full year budget target.
- Commercial lease revenue was \$0.3M under the YTD budget.
- Subsidies received for childcare services were \$0.38M ahead of YTD budget. These are offset by higher payments to the Caregivers.
- Interest earnings were \$0.2M ahead of budget with investment interest contributing an extra \$0.17M and interest on outstanding rates \$41k ahead of the cash flow budget.

Operating Expenditure

Reported operating expenditure (including asset depreciation) of \$77.6M was under the YTD budget by \$3.8M.

The following table shows the operating expenditure budget variance at the nature and type level. The internal recharging credits reflect the amount of internal costs capitalised against the City's assets:

Nature or Type Classification	Actual Expenses \$M	Revised Budget YTD \$M	Variance to Budget \$M	FY Revised Budget \$M
Employee Costs - Direct	29.3	30.4	1.1	46.9
Employee Costs - Indirect	0.4	0.5	0.0	1.1
Materials and Contracts	22.7	24.5	1.8	38.1
Utilities	2.9	3.0	0.2	4.6
Interest Expenses	0.0	0.0	0.0	0.1
Insurances	2.1	2.1	0.0	2.1
Other Expenses	4.0	4.3	0.2	6.8
Depreciation (non-cash)	17.4	18.3	1.0	27.5
Internal Recharging-CAPEX	-1.3	-1.8	-0.5	-3.0
Total	77.6	81.4	3.8	124.2

The significant variances at month end were:

- Material and Contracts were \$1.8M under YTD budget with the main contributors being Waste Collection (\$0.36M) and Parks Maintenance (\$0.31M). The balance comprised immaterial variances across the remaining activity areas.
- Salaries and direct employee on-costs were \$1.1M under the YTD budget without any material variances (ie. greater than \$0.2M) recorded in any one business area.



- Under Other Expenses, Council's grants, donations and contributions scheme was running \$0.42M behind the YTD budget. Conversely, the landfill levy paid was \$0.25M over the adjusted YTD budget.
- Depreciation on assets were \$0.98M under the YTD budget mainly due to lower depreciation for road assets of \$0.45M (due to EOFY revaluations) and lower depreciation for parks equipment of \$0.21M.
- The internal recharging of overhead costs to the CAPEX program was \$0.48M behind the YTD budget setting, being in line with the under spend for the program (particularly roads infrastructure projects).

Capital Expenditure

The City's total capital spend at the end of the month was \$27.9M, representing an under-spend of \$16.0M against the YTD budget of \$43.9M.

The following table shows the budget variance analysis by asset class:

Asset Class	YTD Actuals \$M	YTD Budget \$M	YTD Variance \$M	FY Revised Budget \$M	Commit Orders \$M
Roads Infrastructure	3.8	6.2	2.4	13.1	4.6
Drainage	0.5	0.6	0.1	1.4	0.0
Footpaths	0.6	0.5	-0.1	1.2	0.0
Parks Hard Infrastructure	1.6	4.1	2.5	7.6	0.1
Parks Soft Infrastructure	0.3	0.8	0.5	1.3	0.0
Landfill Infrastructure	0.2	0.3	0.1	0.5	0.0
Freehold Land	0.3	0.5	0.1	1.6	0.0
Buildings	23.8	30.8	7.0	64.7	57.1
Furniture & Equipment	0.0	0.0	0.0	0.0	0.0
Computers	0.2	0.9	0.7	1.0	0.1
Plant & Machinery	1.9	5.6	3.8	6.2	2.7
Total	33.3	50.2	16.9	98.6	64.7

These results included the following significant items:

- Buildings – had a net under spend against YTD budget of \$7.0M comprising the Operations Centre upgrade (\$2.67M), CCW RAEPEC project (\$2.74M), Civic building energy reduction initiative (\$0.21M) Coleville Crescent carpark extension (\$0.26M) and Atwell clubrooms upgrade (\$0.39M).

- Roads Infrastructure - The roads construction program was \$2.4M under-spent against the YTD budget, mainly due to Beeliar Drive [Spearwood Avenue to Stock Road] under by \$1.49M; Berrigan Drive [Kwinana Freeway to Jandakot Road] under by \$1.44M; North Lake Road [Hammond to Kentucky] under by \$0.27M and. Cockburn Road and Poore Grove intersection project \$0.21M over the YTD budget.
- Plant & Machinery - The plant replacement program was \$3.8M behind the YTD budget although \$2.7M of heavy and light fleet items is on order and awaiting delivery.
- Parks Hard Infrastructure - The parks capital program is collectively \$2.5M behind YTD budget with the only material variances being the adventure playground at Bibra Lake (\$0.74M) and Coogee Beach Master Plan works (\$0.37M). The balance is comprised of immaterial under spends across the program.
- Parks Soft Infrastructure - The parks streetscaping program is collectively \$0.5M behind the YTD budget.
- Computers - The City's technology capital spend budget is collectively \$0.65M behind its YTD budget.

Capital Funding

Capital funding sources are highly correlated to capital spending, the sale of assets and the rate of development within the City (developer contributions received).

Significant variances for the month included:

- Transfers from financial reserves were \$14.8M below YTD budget due to the capital budget under spend.
- Developer contributions received under the Community Infrastructure plan were \$0.93M over the YTD budget.
- Regional road grant and R2R funding for the roads construction program was \$0.42M behind YTD budget as a result of the YTD under spend.
- External funding for CCW RPAEC project was \$13.2M behind YTD budget comprising \$8.3M from loan funds, \$4.5M from development partner contributions and \$0.4M from government grants.
- Proceeds from the sale of land were \$13.2M below the YTD budget due to several unrealised land sales on Beeliar Drive (\$11.8M) and Davilak Avenue (\$1.3M).
- Proceeds from the sale of plant items were \$0.9M behind YTD budget, correlating to the lag in the replacement program.

Cash & Investments

The closing cash and financial investment holding at month's end totalled \$158.0M, slightly down from \$163.2M the previous month.



\$103.0M of this balance represented the amount held for the City's cash backed financial reserves. Another \$6.9M represented restricted funds held to cover deposit and bond liabilities. The remaining \$48.1M represented the City's liquid working capital, available to fund current operations, capital projects, financial liabilities and other financial commitments (e.g. end of year reconciling transfers to financial reserves).

Investment Performance, Ratings and Maturity

The City's investment portfolio made a weighted annualised return of 3.00% for the month, slightly up from 2.98% the previous month and 2.96% the month before that. This result compares favourably against the UBS Bank Bill Index (2.72%) and has stabilised in recent months as new investments are placed at similar or higher rates to those on maturing investments. The cash rate set by the Reserve Bank of Australia currently sits at 2.00% and is not anticipated to change within the next couple of months.

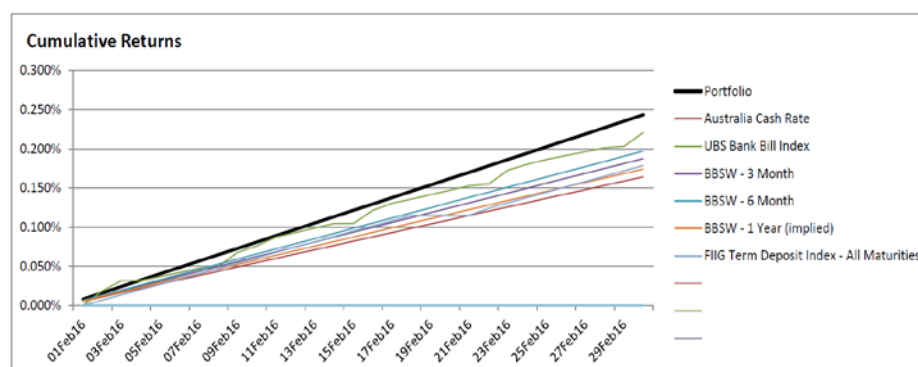


Figure 1: COC Portfolio Returns vs. Benchmarks

The majority of investments are held in term deposit (TD) products placed with highly rated APRA (Australian Prudential Regulation Authority) regulated Australian and foreign owned banks. These are invested for terms ranging from three to twelve months. All investments comply with the Council's Investment Policy other than those made under previous statutory requirements and grandfathered by the new provisions.

TD investments fall within the following Standard and Poor's short term risk rating categories:

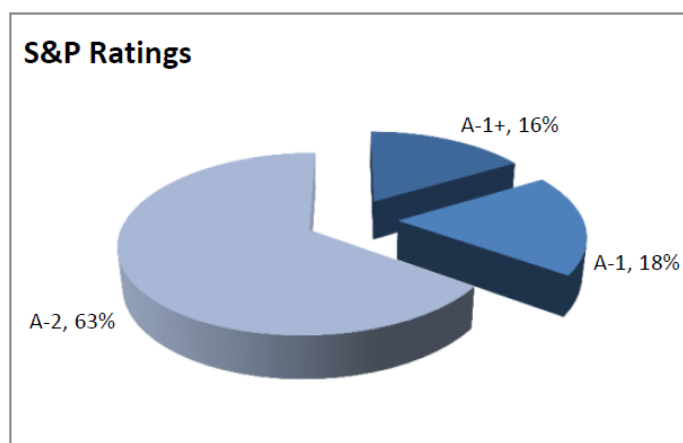


Figure 2: Council Investment Ratings Mix

The current investment strategy seeks to secure the best possible rate on offer over the longest duration term allowed under legislation and policy (up to 12 months for term deposits), subject to cash flow planning requirements. The City's investment portfolio currently has an average duration of 125 days or 4.2 months (down slightly from 132 days the previous month) with the maturity profile graphically depicted below:

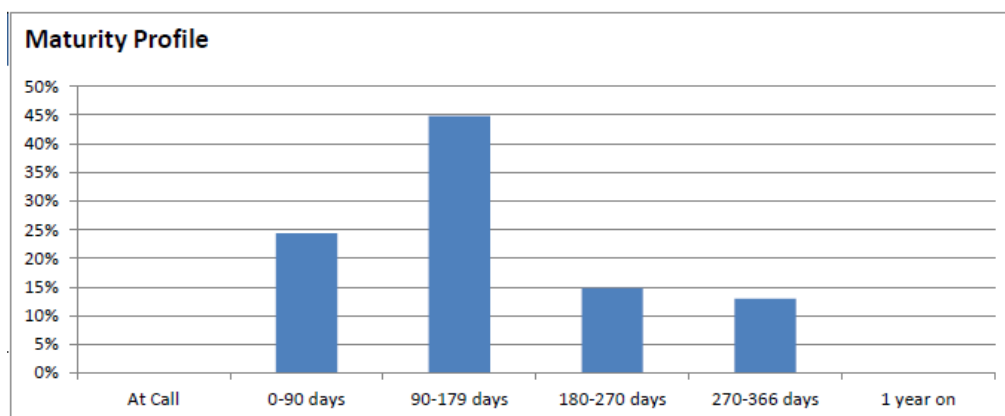


Figure 3: Council Investment Maturity Profile

Investment in Fossil Fuel Free Banks

At month end, the City held 65% (\$99.9M) of its TD investment portfolio in banks deemed as free from funding fossil fuel related industries. This is up from 61% the previous month and up from 36% a year ago. This outcome has been achieved without compromising investment return through increased awareness and more thoughtful funds placement.

Budget Revisions

The sale of lot 23 Russell Road, Hammond Park has fallen through. Accordingly, the budgeted sale proceeds of \$1,355,000 and the



matching transfer to the Land Development Reserve need to be removed from the 2015/16 budget.

Description of Graphs and Charts

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

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

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year. Council's overall cash and investments position is provided in a line graph with a comparison against the YTD budget and the previous year's position at the same time.

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

Strategic Plan/Policy Implications

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.
- Manage our financial and infrastructure assets to provide a sustainable future.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

Budget/Financial Implications

The City's closing Municipal Budget position has increased by \$85,639 to \$388,698 due to the impact of the mid-year budget review. Sale proceeds from asset sales will reduce by \$1,355,000 but this is offset by a reduction in the transfer to reserves of the same amount.

Legal Implications

N/A



Community Consultation

N/A

Risk Management Implications

Council's budgeted revenue and financial reserves will be overstated, thereby misrepresenting Council's expected financial position if the recommendation amending the budget is not adopted.

Attachment(s)

Statement of Financial Activity and associated reports – February 2016

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

AT THIS POINT IN THE MEETING, THE TIME BEING 8.12 P.M. CLR KEVIN ALLEN LEFT THE MEETING

DECLARATION OF INTEREST

The Presiding Member advised he had received a Declaration of Interest as follows:

CLR KEVIN ALLEN

Declared a financial interest in Item 16.1 'Port Coogee Marina Handover Agreement and Related Matters', pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is that I am a pen holder at the marina.

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (MINUTE NO 5763) (OCM 14/4/2016) - PORT COOGEE MARINA HANDOVER AGREEMENT AND RELATED MATTERS (041/013 & 6017122) (D VICKERY) (ATTACH)

RECOMMENDATION

That Council

(1) authorise the Chief Executive Officer to enter into a Deed of



Agreement with Port Catherine Developments Pty Ltd (Port Coogee Developments) associated with handover of the Port Coogee Marina to the City of Cockburn at midnight on the 23rd July 2016 ("handover date"), this Deed to include:

1. The City accepting the transfer to it of Lot 1101 Maraboo Wharf, Port Coogee, including the Marina Services Building located on the lot.
2. The City entering into a lease agreement for the upper floor of the Marina Services Building with Frasers Property Australia Pty Ltd (Frasers):
 - (i) for a period of three years with two options to renew of one year each; and
 - (ii) at a lease fee of \$46,750.00 ex GST per annum with annual CPI increases plus all outgoings.
3. The City accepting the transfer to it of Lot 1103 Maraboo Wharf, Port Coogee subject to all defects in the construction of the fuel storage facility contained within the lot being remedied by Frasers Property Australia Pty Ltd (Frasers) prior to transfer to the satisfaction of the City.
4. The City accepting the transfer to it of the 150 mooring pens and associated finger jetties and access boardwalks plus the fuel services jetty, subject to them being fit for purpose.
5. The City accepting the transfer to it of the other Marina infrastructure including breakwaters, sea walls and revetments subject to any defects having been rectified to the satisfaction of the City and an appropriate coastal engineering firm by Port Catherine Developments prior to the handover.
6. The City accepting the transfer of the Department of Transport's Marina Jetty licence subject to the payment by Frasers to the City of the City's Proportion of the marina mooring pen licence fees paid by pen licence holders to Frasers, plus accepts the transfer of other Department of Transport licences pertaining to the Port Coogee Marina infrastructure including breakwaters.
7. The City accepts the provision to it from Port Catherine Developments of the concept design plans for the future up to 150 additional marina mooring pens and previous pen construction specifications as a fulfilment of Port Catherine Developments' obligations to provide to the City the design

of the additional mooring pens; and the City shall accept responsibility for provision of the additional mooring pens subject to the staging and timing of that provision being determined by the City when demand for those pens plus the business case justifies that provision.

8. The City accept the transfer to it of the Groundwater Interception Drain and related infrastructure including pumps, tanks, bores, pipework and control and monitoring devices, plus the non-potable water supply infrastructure servicing private properties, subject to it being fit for purpose and any defects remedied to the satisfaction of the City prior to handover.
9. The City accept the transfer to it of the obligations pertaining to the Waterways Environmental Management Plan including environmental water quality monitoring and reporting, sand bypass and operation of the Groundwater Interception Drain, subject to Port Catherine Developments payment to the City of the 'minimum sum' calculated in accordance with the formula set down in the Waterways Management Transfer Facilitation Agreement.
10. The City agrees to make available the non-potable water supply drawn from the groundwater interception drain to new and existing development areas within the Port Coogee development, subject to any extension of the non-potable water supply infrastructure to service new lots being at the expense of Port Catherine Developments, and the continued provision of the non-potable water supply shall be subject to periodic Council review and the continued provision of the Department of Water extraction licence.
11. The City agrees to employ the Marina Manager currently contracted to Frasers for a period of not less than two months past handover, to aid in the orderly transfer of operations over to the City, subject to a satisfactory employment package including working hours and remuneration being agreed upon between the City and the officer.
12. The City agrees to construct a southern toilet block at its cost in the vicinity of the Port Coogee southern peninsula at a time when demand due to development of that area requires the facility.
13. Accept Port Catherine Developments commitment to



construct the remaining over water boardwalks to the south east and south of the marina waterway area, together with the southern disability friendly fishing jetty in accordance with the District Structure Plan, on the basis that the construction shall be no later than the development and clearance of the adjacent public open space areas of the southern peninsular by/for Port Catherine Developments, and that security is to be provided in the form of a caveat on property to a value sufficient for the benefit of the City.

- (2) enter into a licence agreement with Baileys Marine Fuels Australia Pty Ltd for a period of five years with an option for a further five years, for an annual licence fee income to the City of \$4,545 ex GST with annual CPI increases plus a fuel levy payment of 5.5 cents/litre to the City for the use of the land and the operation of the Marina Fuel Supply Operations Facility; and
- (3) agree to adopt the Port Coogee Business Financial Model, Mooring Pen Licence Agreement form and fee schedule as attached at Annexure 3, with subsequent licence fees and charges being determined and advertised as part of the Council's annual budget formulation and approval process.

COUNCIL DECISION

MOVED Mayor L Howlett SECONDED Cllr S Portelli that Council:

- (1) as recommended
 1. as recommended
 2. as recommended
 - (i) as recommended
 - (ii) at a lease fee of \$46,750.00 ex GST per annum with annual CPI (Perth Index) increases plus all outgoings.
 3. The City accepting the transfer to it of Lot 1103 Maraboo Wharf, Port Coogee subject to all defects in the construction and operation of the fuel storage facility contained within the lot being remedied by Frasers Property Australia Pty Ltd (Frasers) prior to transfer to the satisfaction of the City.
 4. The City accepting the transfer to it of the 150 mooring pens and associated finger jetties and access boardwalks

plus the fuel services jetty, subject to them being fit for purpose as determined by the City.

5. The City accepting the transfer to it of the other Marina infrastructure including breakwaters, sea walls and revetments subject to any defects having been rectified to the satisfaction of the City and an appropriate coastal engineering firm engaged by Port Catherine Developments prior to the handover.
 6. as recommended
 7. as recommended
 8. as recommended
 9. as recommended
 10. as recommended
 11. as recommended
 12. as recommended
 13. Accept Port Catherine Developments written commitment to construct the remaining over water boardwalks to the south east and south of the marina waterway area, together with the southern disability friendly fishing jetty in accordance with the District Structure Plan, on the basis that the construction shall be no later than the development and clearance of the adjacent public open space areas of the southern peninsular by/for Port Catherine Developments, and that security is to be provided in the form of a caveat on property to a value sufficient for the benefit of the City.
- (2) enter into a licence agreement with Baileys Marine Fuels Australia Pty Ltd for a period of five years with an option for a further five years for an annual licence fee income to the City of \$4,545 ex GST with annual CPI (Perth Index) increases plus a fuel levy payment of 5.5 cents/litre to the City for the use of the land and the operation of the Marina Fuel Supply Operations Facility; and
- (3) as recommended.

CARRIED 8/0



Reason for Decision

The addition of the underlined words to the recommendation will provide additional clarification and surety to the City in terms of the agreement between the relevant parties and the City.

OFFICER'S COMMENT

It has been pointed out that the figures included in Columns 2, 3 & 4 of one of the Tables in the OCM Report Item 16.1 were in error for comparative purposes, in that they included GST whereas the other column figures were GST exclusive.

The table has been corrected (and attached), the top one being correct with all GST exclusive figures. The recommendation and all of the rest of the Report remains correct.

Background

In the year 2000 Port Catherine Developments Pty Ltd (PCD), a subsidiary of Australand Pty Ltd (now Frasers Property Pty Ltd), entered into 'Project Agreement No.2' with Western Australian Planning Commission (WAPC) to undertake the Port Coogee residential, commercial and marina development. The Agreement included the requirement on the Developer to construct the breakwaters, seawalls, waterways and various other marina related infrastructure including a minimum of 150 mooring pens, which would in due course be passed to the relevant authority (the City of Cockburn). The Project Agreement was subsequently varied in 2005 by agreement between the parties to it to stipulate approximately 300 mooring pens were to be constructed.

In 2002 to facilitate the development an amendment to the Metropolitan Regional Scheme was initiated by WAPC and assessed by the Environmental Protection Agency (EPA). The projects approval was provided on the basis of the development and implementation of a number of plans including the Waterways Environmental Management Program (WEMP), which in turn comprises:

- Volume 1 - Water and Sediment Quality Monitoring and Management Program;
- Volume 2 - Coastal Monitoring and Management Plan;
- Volume 3 - Waterways Emergency Response Plan;
- Volume 4 - Water Drainage and Intercept Plan; and
- Volume 5 - Landscape management Plan

An environmental concern was nutrient rich groundwater emanating from the higher ground to the east entering the (to be) constructed marina waterway and causing algal blooms or other undesirable environmental outcomes, and so the developer was to construct a Groundwater Interception Drain (GID) that intercepts the groundwater and redirects it to reticulating the landscaped areas of the Port Coogee Development and a significant quantity is to be reinjected into the ground north of the Port Coogee Development, where its migration into the ocean would not cause such issues.

In 2005 the Port Coogee Waterways Management Transfer Facilitation Agreement (WMTFA) was signed between the City of Cockburn and PCD, this setting out particulars including the transfer of land and waterways (as Reserves with management vested in the City) thereafter and the passing of the marina, mooring pens and the waterways management responsibilities of the WEMP to the City of Cockburn on and from the Date of Handover, set at midnight on the 23 July 2016.

PCD proceeded to construct the marina facilities including 139 mooring pens, access jetties, boardwalks and a services jetty, gained a jetty licence through the Department of Transport (DoT) and commenced issuing pen sub-licences to vessel owners in January 2012.

In June 2014 following the creation of the marina related crown reserves and management vesting in the City, the City entered into a lease with PCD (the Marina Reserve Lease) to facilitate PCD's continued access to the reserve for the ongoing provision via pen licences of the mooring pens and undertaking the responsibilities of Waterways Manager. The Lease end date was set at midnight on the 23rd July 2016 to coincide with the Date of Handover.

Through the course of the site development, PCD have submitted Structure Plans and Development Applications and on receipt of the various Development Approvals from the City have proceeded to construct the various boardwalks, a fishing jetty, marina services building, public ablution building and marina fuel service facilities.

Eleven (11) additional mooring pens were provided by PCD in February 2016 to bring the number being handed over to the City to 150 mooring pens as stipulated in the WMTFA and Port Coogee Marina Reserve Lease documents. Additionally PCD have provided the design layout for the placement of the further approximately 150 mooring pens stipulated in the Project Agreement No. 2 Variation.

Works encompassed in the Structure Plans but not yet constructed include the southern over the water boardwalks and fishing jetty and the additional approximately 150 mooring pens.



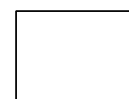
Through 2012 and 2013 PCD commissioned the design and installation of the fuel facilities including a dual fuel underground storage tank under the paved area to the east side of the Dome property, delivery pumps, under walkway pipework and two dispensing bowzers plus a card reader control unit positioned on the service jetty within the marina. Whilst the equipment has been installed, it has not been commissioned, awaiting the issue of a fuel facility operating licence to a suitable fuel facility service provider and the granting of a Dangerous Goods License by the Department of Mines and Petroleum when that agency is satisfied the facility and appropriate management plans meet their requirements.

In January 2015, it was recognised that as the fuel facility is situated within a Crown Reserve with management vesting with the City, and with the fuel facility licence proposed to be of a 5 to 10 year term, thus past the Handover Date, both the Minister for Lands and the City of Cockburn needed to be a party to a fuel facility licence issued by PCD. This introduced complications that the parties agreed would best be overcome by the City, and not PCD, entering into a fuel facility licence agreement with a suitable fuel facility operating company. Inspection of the fuel facility infrastructure installed by contractors to PCD has shown various items requiring rectification before commissioning, plus amended Development Approval conditions were assigned, and these are currently being attended to by PCD.

Since early 2012 PCD have been issuing mooring pen licences (being sub-licences to the jetty licence) and these have been for terms as long as 10 years. The fees that PCD have charged were a large up front construction contribution fee (CCF) and a smaller annual licence fee each year of the licence. The CCF's charged were scaled to encourage longer term licence take-up. As licences came to an end and were renewed a further CCF contribution (or Application Fee as it was re-termed in recent years) was charged relevant to the term of the new licence taken up.

As the marina is situated on a Crown Reserve with management vested with the City, both the City and Department of Lands on behalf of the Minister for Lands have co-signed these pen licence agreements prepared by PCD. Since early 2015 the City requested PCD not to issue mooring pen licences with term extending beyond the Handover Date, citing the absence of suitable commercial terms agreeable to both parties. PCD agreed to implement this measure.

Through 2015 and early 2016 City officers have been liaising with PCD in respect to the various Handover matters, including outstanding infrastructure items, property transfers, fuel facility state of readiness,



and mooring pen licence arrangements, culminating the proposed Deed of Handover particulars.

Separately the City has arranged for the new mooring pen licence to be prepared and has developed the fee schedule for proposed application to pen licences it issues with terms commencing at the Handover date and beyond. The proposed fee schedule and draft new Mooring Pen Licence is attached at Annexures 3 & 4.

Submission

N/A

Report

(A) Handover Deed Items

1. Land Transfer & Licencing

- (i) Lot 1101 Maraboo Wharf, upon which the Marina Services Building is constructed, is to be transferred in ownership from Port Catherine Developments Pty Ltd (PCD) to the City free of cost in accordance with the Port Coogee Structure Plan and the Development Approval dated 21 March 2012. The transfer can occur on or before the Marina Handover date.

The Marina Services Building comprises upstairs an area currently used by Frasers as a sales office and a secure ablution facility for use by the mooring pen licence holders, and downstairs an office area for the Marina Manager and other marina servicing staff, and several marina related storerooms.

PCD have requested as part of the Handover Deed negotiations, that Council consent to them leasing the upper floor of the building that they (Frasers) have been using as a sales office, with the lease commencing at the date of the land transfer and extending for a period of three years with two option periods thereafter of one year each.

Subject to Council consent, the parties have agreed to transfer the land where the Marina Services building is located to the City's ownership prior to the handover date of 24 July 2016.

The lease arrangement with Frasers will allow a lease commencement date of the date of transfer, but the lease fee charges will not commence until the marina handover date.



The recommended lease fee of \$46,750 ex GST per annum to be charged to Frasers is in accordance with a recent valuation by a licensed Valuer. The lessee will be responsible for all outgoings from the date of transfer including the installation of separate meters for any utility services.

- (ii) Lot 1103 Maraboo Wharf contains the marine fuel storage tank and pumps that supply fuel via the underground and under jetty pipelines to the marina services jetty fuel dispensing bowisers. The Lot is freehold land owned by PCD. Subject to the City accepting the design and construction of the fuel storage facilities, which require a number of defects addressed, it is recommended that Council accept Lot 1103 being transferred to the City in freehold.

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Accept the transfer from PCD of freehold lots 1101 and 1103 Maraboo Wharf, Port Coogee; and
 - b) Enter into a lease agreement with Frasers Property Australia Pty Ltd. for their leasing from the City of the designated upper floor area of the Marina Services Building

2. Marina Mooring Pen, Breakwater & Waterway Management Handover

PCD are required to transfer, and the City is required to accept, at the Handover Date, in accordance with the Waterways Management Transfer Facilitation Agreement (WMTFA), the ownership and management responsibility of the Port Coogee Marina constructed by PCD in accordance with Project Agreement No.2 and the various WAPC and City of Cockburn Development Approvals.

Additional to the waterway management responsibility (including that associated with Njarkel beach) passing to the City, this transfer includes responsibility for the breakwaters, sea walls, jetties, mooring pens, boardwalks and walkways that are not otherwise privately owned or not yet developed or not already passed to the City.

PCD have commissioned inspections by coastal engineering firm M P Rogers & Associates (MRA) from which remedial works to bring the various infrastructure assets into appropriate condition for Handover has also been initiated by PCD. Over the intervening months up to Handover the City will be seeking As Constructed asset information, undertaking inspections and requiring of PCD any further corrective works to bring the assets and facilities to an agreed standard for the Handover.



It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Note and accept the transfer of the Port Coogee Marina elements including waterway management from PCD to the City at the Handover Date, based on PCD transferring the various elements in an agreed standard suitable for Handover.

3. Jetty Licence Transfer

A number of jetty licences have been issued by the Department of Transport (DoT) pertaining to Port Coogee. The jetty licence for the northern fishing jetty has already been transferred from PCD as Licensee to the City as Licensee. At Handover it is proposed that the jetty licence for the Port Coogee breakwater structures will also be transferred from PCD to the City as Licensee.

The DoT jetty licence for the marina mooring pens and service jetty, Jetty Licence No.4097 would also be expected to be transferred from PCD as Licensee to the City as Licensee, at Handover. Mooring pen licences issued by PCD since 2012, some with term end dates well past Handover, are sub-licences to this Jetty Licence No.4097. The mooring pen (sub) licences issued by PCD incorporate terms allowing reimbursement of licence fees paid by the Licensee in the event of the pen licence being surrendered. PCD received very large up front licence fees from the Licensees at commencement of the licence, and have charged a comparatively low (compared with other Marinas) annual licence fee thereafter.

The City is concerned that subsequent to Handover the pre-existing mooring pen licences associated with Jetty License 4097 will represent a contingent liability on the City of reimbursement of licence fees paid in the event of a surrender of the licence by the Licensee. The City is also concerned that the terms of the pre-existing mooring pen licences preclude the City charging what would be a market aligned annual licence fee for those pens post-Handover, until such time as the mooring pen licence reaches the end of its term, some expiring as far out as the year 2022.

To address this liability and shortfall the City has negotiated with PCD the payment to the City within 28 days of the Handover Date the City's Proportion of the licence fees received by PCD associated with that pen licence. This payment will enable the City to reimburse any of these pre-existing pen licence holders with licences carrying past Handover the amounts due (according to the terms of the pen licence) in the event of that party surrendering their pen licence after Handover. The funds can be drawn upon (unless used for surrender reimbursement) to support the annual licence fees being received



associated with the carry over pen licences. Surrender payments will be calculated at the end of every quarter in arrears to provide the City time to process surrender applications, discuss with applicant, and seek new pen holder tenants and to fund the payment by way of transfer from relevant reserve.

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Accept the transfer from PCD as Licensee to the City as Licensee of the DoT Jetty Licence(s) associated with the marina breakwaters and other similar structures at the marina; and
 - b) Accept the transfer from PCD as Licensee to the City as Licensee of the DoT Jetty Licence No.4097 subject to the payment by PCD to the City of the City's Proportion of mooring pen licence fees received by PCD associated with mooring pen licence terms past the Handover Date of 24 July 2016.

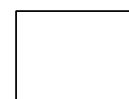
4. Future Pen Design & Provision

Project Agreement No.2 Variation No.2 entered into between PCD and the West Australian Planning Commission (WAPC) requires the Developer (PCD) to provide approximately 300 mooring pens in total at Port Coogee.

PCD have constructed 150 mooring pens at Port Coogee, this number being as required for Handover to the City as stipulated in the Port Coogee Waterways Management Transfer Facilitation Agreement (WMTFA) and the Marina Reserve Lease entered into between PCD (the Licensee) and the City of Cockburn (Licensor).

The WMTFA also requires that PCD provide to the City prior to or at Handover the engineering design drawings for the further approximately 150 mooring pens associated with the final marina design (excluding private mooring pens connected to freehold lots).

PCD have provided the future marina mooring pen layout plans developed by coastal engineers M P Rogers and Associates (MRA) and reviewed by the DoT. The pen layout entails all of Jetty F (currently part used for day visitor vessel tie up) being taken up with licenced mooring pens, a new jetty and pens being installed at toward the southern end of the marina reserve (at the end of the current boardwalk), and the majority of the additional mooring pens being constructed on finger jetties leading off of the Stage 5 – Islands land area (see Annexure 2). Encompassed in this layout design the day visitor vessel tie up area will shift from Jetty F to the land backed boardwalk at the southern extent of the marina waterway area.



PCD have also noted that the prior 150 mooring pens were constructed via a Design and Construct contract whereby the Contractor proposed their proprietary product floating finger jetties and alike to suit a broad design brief and technical specification, and PCD have proposed that this be the approach taken for the further 150 pens, thereby obviating the need for detailed engineering design drawings. City officers concur with this being a logical approach.

The WAPC and the Department of Transport (DoT) are of the view that the further approximately 150 mooring pens are needed and should be provided at Port Coogee, and would be satisfied whether the additional mooring pens are constructed by PCD (in accordance with the Project Agreement No.2 Variation No.2) or by the City. They (WAPC and DoT) have not expressed a view as to when the additional approximately 150 mooring pens are needed to be constructed.

As part of the Handover Deed negotiations, the City has tentatively proposed that the City take responsibility for the construction, in due course, of the additional approximately 150 mooring pens. The reasoning for this is that the City can time the construction, in stages or in full, to suit the demand from prospective pen holders for the additional mooring pens, plus manage the ongoing licensing and income receipt from those pens without conflicting with the ongoing management of the initial 150 mooring pens. Construction of the additional mooring pens can thus be timed to suit the Business Plan and ensure the construction cost is appropriately recovered over time through pen licence income.

Should the City (or WAPC) require in the alternative for PCD to construct the additional approximately 150 mooring pens, there does not exist within the current relevant documents a means by which PCD would have an opportunity to recover the cost of the construction of those additional mooring pens, nor for the City to stipulate the specific timing of the construction of the additional mooring pens.

The City officers see the benefit, as part of the Deed of Handover, of absolving PCD of the requirement to construct the additional approximately 150 mooring pens and instead to arrange construction of them itself at a time or in stages to suit the demand and business plan, when cost recovery and least impact on the other aspects of the marina including income through licence fees can best be assured.

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Accept the provision by PCD of layout design and broad specification information for the future approximately 150 mooring pens, together with As Constructed design



- information for the previously constructed mooring pens, satisfies PCD's obligations to the City at Handover; and
- b) Accept that the City will take over from PCD at Handover the responsibility for the provision of the future approximately 150 mooring pens, this commitment (to WAPC and DoT) being subject to the staging and timing of that provision being determined by the City when demand for those pens plus business case justifies it.
 - c) Seek the retention of the existing temporary parking bays at the southern end of the marina (approximately 80 bays) for general parking until such time as the development of the southern peninsula progresses, after which the equivalent number of bays will be required in that locality to maintain the parking capacity of the marina area

5. Groundwater Interception Drain & Associated Infrastructure & Servicing Including Non-Potable Water Supply Provision

PCD are required to transfer and the City is required to accept at the Handover Date of 24 July 2016, in accordance with the Waterways Management Transfer Facilitation Agreement (WMTFA), the Marina Waterways management obligations, and "all plant, equipment, fixtures and fittings employed by the Developer for the purposes of carrying out the Waterways Management Obligations and required by the City to carry out the Waterways Management Obligations which the City elects to take assignment of". The WMTFA notes "such plant, equipment, fixtures and fittings are to be in good working order."

The Groundwater Interception Drain (GID) has been installed and operated by PCD as part of fulfilling their waterways environmental management responsibilities. The City will likewise need to operate the GID for nutrient rich water interception after the City takes over at Handover and until the need for the drain no longer exists.

The water extracted from the GID is variously used for public open space and roadside vegetation watering, and for a non-potable water supply via third pipe system to those property owners that would wish to connect to it, whilst the balance of the water extracted is reinjected into the ground to the north of Port Coogee. The water used for the POS reticulation and non-potable water supply to residential lots applications is drawn from the GID and stored in a large underground tank before being pumped to where it is required. The other extracted water is pumped from the GID directly to the reinjection bore near Rollinson Road (well north of the Port Coogee development).

PCD currently install the non-potable water supply pipe infrastructure to the residential land development areas and enter into licence agreements with those property owners that wish to connect to it,



charging a nominal fee. PCD advise that approximately 80 property owners (or 20%) of the total lot owners, have to date applied to connect to the non-potable water supply.

As part of the Handover negotiations, PCD have sought for the City to commit to, post the Handover, continuing with the non-potable water supply from the GID to those current and future Port Coogee property owners that currently, or wish to, connect to it. There is ample water supply available from the GID extraction.

Continued supply of non-potable water via third pipe system will incur costs for the City not covered by the current very low Application Fee (\$1). These costs include a proportion of the running costs for the water pumps drawing the water from the GID and from the holding tank and the ongoing inspection and maintenance of the equipment including water supply lines within the road reserves. If the City were to significantly elevate the joining/application fees for property owners, this can be expected to deter property owners from signing up to it.

As the non-potable water supply is currently and proposed to, if agreed with PCD, be available to all residential property owners within Port Coogee into the future, it is proposed that the cost of servicing the non-potable water supply be incorporated into the Port Coogee Special Area Rate (SAR).

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Agree to commit to the ongoing provision of non-potable water via the third pipe system installed by PCD to residential property owners within the Port Coogee development area that seek it; AND
 - b) In order to cover costs for ongoing non-potable water provision to residential properties, continue to charge a small application fee for new connections and incorporate the approximate cost of the non-potable water supply provision and servicing otherwise into the Port Coogee Special Area (SAR) Rate.

6. Marina Manager Employment

The City has established a position within its structure of Marina and Coastal Engineering Manager. The duties of the position include the role of Port Coogee Marina Manager. The position was advertised and applications will be assessed over the next several weeks with expectation that an officer will be appointed into the role in time for the City taking responsibility for the Marina on the 24th July 2016.



Frasers employed Mr Nich Grundy as Marina Manager, this contract coming to an end at Handover. Frasers have proposed as part of the Handover Deed negotiations that Mr Grundy be employed by the City for a period of not less than 2 months past Handover to assist City staff with the transition, citing the benefit this will provide the City due to his familiarisation with the marina operations and pen holders.

There is support from the City's officers to this proposal and preliminary contact has been made with Mr Grundy that confirms his interest. The proposal is for a formal offer of employment be made on a fixed term casual basis with remuneration being comparable to a Level 9 (Service Unit Manager) position within the City if on casual rates.

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Agrees to employ the Marina Manager currently contracted to Frasers for a period of not less than two months past Handover to aid in the orderly transfer of operations over to the City, subject to a satisfactory employment package including working hours and remuneration being agreed upon between the City and the officer.

7. Southern Toilet Block

A public toilet block is proposed for the area of the southern peninsula. PCD are seeking as part of the Handover Deed provisions that the City provide this toilet block at its cost and it to be of a standard comparable to the northern toilet block that PCD provided.

It is the case that when the Marina Services Building and northern toilet block were agreed to be provided by PCD, as assets to be gifted to the City, it was agreed that PCD would not have to also fund the provision of a southern toilet block.

The toilet block can potentially be constructed as a standalone facility toward the southern side of the southern peninsula, near the carpark area, or perhaps integrated into the ground floor of a building constructed by others. When the Local Structure Plan proposal(s) and Development Applications pertaining to the southern peninsula are submitted to the City, a determination can be made on how and where best to position the proposed southern toilet block.

It is proposed to be agreed that the City will install a toilet block at its cost in the most appropriate site within the area of the southern peninsula but not before the demand for such ablution facilities is apparent and not before the full extent of the development of that area is fully articulated.



It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Agrees to construct a southern toilet block at its cost in the vicinity of the Port Coogee southern peninsula at a time when demand due to development of that area requires the facility

8. Outstanding Boardwalk & Fishing Jetty

The approved Structure Plans for the wider Port Coogee marina precinct include for PCD providing additional over water boardwalks to the south east corner and southern side of the marina waterway area, and an additional fishing jetty also on the southern side of the marina waterway. These are represented on the Plan at Annexure 2.

PCD is committing to commission the design and construction of the additional boardwalks and fishing jetty at a future date at its cost, and for this commitment to be built into the Handover Deed and for the City to place a caveat on a property to the value of as security.

The southern side boardwalk and jetty will be expected to be completed by PCD when they undertake the adjacent southern peninsular Public Open Space works. Desirably the south eastern boardwalk is constructed sooner to facilitate the first of the next stages of marina pen construction and/or new day visitor pen tie up provision, works the City would propose to initiate.

It is therefore recommended that Council:

- As part of a Deed of Handover:
 - a) Accepts Port Catherine Developments commitment to construct the remaining over water boardwalks to the south east and south of the marina waterway area, together with the southern disability friendly fishing jetty, in accordance with the District Structure Plan, on the basis that the construction shall be no later than the development and clearance of the adjacent public open space areas of the southern peninsular by/for Port Catherine Developments, and will require security in the form of a caveat on property to a value sufficient for the benefit of the City
 - b) Port Coogee Marina Fuel Service Facility & Licence Agreement

As per delegated decision dated 1 April 2016, Baileys Marine Fuels Australia Pty Ltd is being appointed to manage the fuel service facility located within the Marina at Port Coogee. To formalise this arrangement it is intended that subject to Council consent, the City will enter into a licence arrangement with Baileys for the management of the fuel service facility



and to provide access for shared usage of the land being on Reserve 51717 and the City's future freehold lot 1103.

The annual licence fee has been set by public tender at \$4,545 (ex GST) including annual CPI increases together with a fuel levy payable to the City of \$0.055 per litre. The term of the licence will be five years with an option for a further five years.

It is therefore recommended that Council:

- Enter into a licence agreement with Baileys Marine Fuels Australia Pty Ltd for the Port Coogee fuel service provision.

c) Financial Including Pen Fees

1. Proposed Fees and Charges

The proposed Fees and Charges post-handover are comprised of two parts:

(i) Part 1 – Existing Pen Licences Extending Past Handover

The existing penholders that have a mooring pen licence that transitions the handover date of midnight on 23 July 2016 will continue to pay the same Annual Licence Fee similar to that previously set by Port Catherine Developments Pty Ltd (PCD), plus a small increase to cover CPI and minor escalations.

When this group of mooring pen licences expire, the licensee will thereafter need to will pay a market linked annual fee. There will be no lump sum up front fee. This is because PCD needed to recoup as much of the capital invested prior to handover as possible. In essence their fee structure was similar to other public marinas but weighted to a large upfront fee and a small annual fee, repeated each time the licence was renewed or extended. Further they did not need to cover any significant maintenance on the facility as they are not the long term owners of the facility.

For example – a pen holder who took out a licence for a 12m (4.4m wise) pen for 10 years would pay the following:

Fees under PCD (Fraser Property Group):

- Up-front payment fee\$54,308
- Annualised Up-front fee\$5,431
- Annual fee\$2,416
- Equivalent Total Annual Fee:.....\$7,847

Fees under City of Cockburn:

- Proposed Cockburn Annual Fee:..... \$6,545

The proposed fees for existing pen licenses carrying past Handover are represented on the second column in the Schedule of Fees at Annexure 3.

(ii) Part 2 – New Mooring Pen Licences

Penholders that have a new mooring pen licence commencing at or post-handover will pay a market linked annual fee, similar to the Mandurah Marina, Mindarie Marina and Hillarys Marina. This amount is contained in the last column on the right hand side of the table below and the 3rd column of the Table at Annexure 3.

The City commissioned an independent assessment of current market rates by McGee's Valuers to assist in determination of the proposed Annual Pen Licence Fees, also included in the table below.

PEN LENGTH (Metres)	PEN WIDTH (Metres)	REF. 2014 PCD Construct ion Contribut ion Fee (CCF)	REF. 2014 PCD ANNUAL LICENSE FEE	PCD's Annualis ed CCF & Annual Licence Fee	Initially Proposed CoC Annual Licence Fee	McGees Recomm ended Rates (ex GST)	Other Marina Rates				Now Proposed Annual Starting (2016/17) Pen Licence Fees (ex GST)
							DoT Challenger Fremantle '15/16 (ex GST)	DoT Fishing Boat Harbour Fremantle '15/16 (ex GST)	DoT Hillarys '15/16 * (ex GST)	Co Mandurah Ocean Marina '15/16 & '16/17 (ex GST)	
8		\$29,601 (10 Yr) - \$4,485 (1 Yr)	\$1,389	\$4,349 (10 Yr) -> \$5,874 (1 Yr)	\$5,300						\$4,000
10	4	\$42,257 (10 Yr) - \$6,403 (1 Yr)	\$1,897	\$6,123 (10 Yr) -> \$8,300 (1 Yr)	\$6,600	\$5,000	\$5,338	\$6,150	\$4,869	\$4,355	\$5,000
12	4.4	\$54,308 (10 Yr) - \$8,288 (1 Yr)	\$2,416	\$7,847 (10 Yr) -> \$10,704 (1 Yr)	\$6,350	\$6,545	\$6,406	\$7,380	\$5,842	\$5,225	\$6,545
12	6.5				\$9,525	\$6,655					
12	7.2										
12	8										
15	5	\$75,433 (10 Yr) - \$11,505 (1 Yr)	\$3,266	\$10,809 (10 Yr) -> \$14,771 (1 Yr)	\$11,025	\$8,523	\$8,007	\$9,225	\$7,303	\$6,532	\$8,523
15	7.5				\$16,538	\$8,659					
16	5.2	\$83,135 (10 Yr) - \$12,675 (1 Yr)	\$3,579	\$11,893 (10 Yr) -> \$16,254 (1 Yr)	\$11,800	\$9,309	\$8,541	\$9,840	\$7,790	\$6,967	\$9,309
20	5.7	\$109,750 (10 Yr) - \$18,500 (1 Yr)	\$4,830	\$15,805 (10 Yr) -> \$23,330 (1 Yr)	\$16,250	\$12,273	\$10,676	\$12,300	\$9,737	\$8,709	\$12,273



2. Business Model for Operating the Marina Post-Handover

Below is a four year model and budget of operating the marina and non-marina assets in accordance with the Proposed Handover Agreement between the Council and PCD.

City of Cockburn - Port Catherine Marina	2016/17	2017/18	2018/19	2019/20
Marina Pen Fees - Current Occupancy	\$896,750	\$919,169	\$942,148	\$965,702
Marina Services Building Lease	\$46,750	\$47,919	\$49,117	\$50,345
Other Income	\$14,000	\$14,000	\$14,000	\$14,000
Total Income	\$957,500	\$981,088	\$1,005,265	\$1,030,046
Marina Pen Fees - Full Occupancy	\$1,055,000	\$1,081,375	\$1,108,409	\$1,108,410
Marina Services Building Lease	\$46,750	\$47,919	\$49,117	\$50,345
Other Income	\$36,000	\$36,000	\$36,000	\$36,000
Total Income	\$1,137,750	\$1,165,294	\$1,193,526	\$1,194,755
General Expenses (including salaries)	\$377,109	\$381,104	\$390,632	\$400,398
Recurrent Expenses				
a) Marina Pens	\$59,670	\$59,670	\$60,863	\$62,081
b) Marina External (inc Fishing Jetty)	\$33,618	\$51,720	\$52,754	\$53,809
c) Marina Services Building	\$54,690	\$54,690	\$55,784	\$56,899
d) Marina Groundwater Interception Device	\$0	\$0	\$0	\$0
Non Recurrent OP Expenses	\$71,750	\$71,750	\$73,185	\$74,649
Depreciation	348,000	348,000	348,000	348,000
Total Expenditure	\$944,837	\$966,934	\$981,218	\$995,836
Operating Surplus - Part Occupancy	\$12,663	\$14,153	\$24,046	\$34,210
Operating Surplus - Full Occupancy	\$192,913	\$198,360	\$212,308	\$198,919

City of Cockburn - Port Coogee Non-Marina Costs	2016/17	2017/18	2018/19	2019/20
A. INCOME				
Municipal Fund	\$50,784	\$49,189	\$51,512	\$53,881
Other Income	\$282,934	\$284,529	\$286,156	\$287,815
Total Income	\$333,718	\$333,718	\$337,667	\$341,696
B. EXPENDITURE				
General Expenses (including salaries)	\$0	\$0	\$0	\$0
Recurrent Expenses				
a) Marina Pens	\$0	\$0	\$0	\$0
b) Marina External (Inc. Fishing Jetty)	\$33,618	\$33,618	\$34,290	\$34,976

c) Marina Services Building	\$0	\$0	\$0	\$0
d) Marina Groundwater Interception Device	\$35,350	\$35,350	\$36,057	\$36,778
Non Recurrent OP Expenses	\$128,500	\$128,500	\$131,070	\$133,691
Depreciation	\$136,250	\$136,250	\$136,250	\$136,250
Total Expenditure	\$333,718	\$333,718	\$337,667	\$341,696
C. BALANCE				
Operating Surplus/Deficiency	\$0	\$0	\$0	\$0

As part of the Marina Pen Fees, the City will bring to account the amortised portion of the outstanding licence fee income for pen holders who transition across the handover period. This will be funded by PCD as part of the handover payments negotiated as part of the proposed Deed of Handover.

Where the marina business unit operates in a surplus, the surplus will be placed into a reserve for future maintenance and development of the marina. The free cash generated by the depreciation charge will be placed into the reserve for future replacement of waterway assets. Where the marina operates as a deficit, the deficit will be offset against the cash arising from the depreciation charge before being transferred to the reserve.

Under the WEMP agreement, the City is responsible for the maintenance and eventual replacement of the following assets encapsulated by the construction of the seawalls and marina. The Marina is responsible for the following:

- Stage 1 - Floating Pen System
- Marina Administration Building
- Refuelling & Sullage Facility (including jetty, tanks & pipes) (check – delete, not eligible WEMP)
- Boardwalk Stage 1 (35%)
- Outer Seawalls
- Inner Seawalls

Council is responsible for the following:

- The public toilets
- Fishing platform
- Boardwalk (65%)
- Beach shelter and BBQ
- North shelter and BBQ
- Beach Maintenance
- GID/3rd Pipe system
- Sand Bypass



The estimated value of the asset base being “gifted” to council is \$17.325m and will be depreciated over periods ranging from 20 to 50 years. The cash generated from the depreciation will be placed into a reserve to fund the replacement of the assets noted above, apart from the GID.

The aim of the business model is to break-even and the budget set above, will not return a profit to the City. This will need to be closely monitored if the City is to fund the second tranche of 150 marina pens due to be constructed as per the agreement with the WAPC.

The leaseholders of the marina pens are in effect assisting the City to pay for the maintenance of the Marina and associated assets. There is additional income from the leasing of the Marina building, fuel sales and transfers from two reserve accounts. Firstly, the WEMP reserve (money paid by PCD for the ongoing implementation of the waterways environmental management program (including the sand bypass, water quality monitoring and the ongoing running and maintenance of the groundwater interception drain (GID)) and secondly from the Specified Area Rate (the second SAR) also for the maintenance of waterway assets. The Port Coogee precinct will have two specified area rates (SAR). The first and current SAR is for the extra over servicing and maintenance of public open space assets including street lights and cleaning. This SAR will be retained but modified to non-waterway properties and land. The second SAR will be introduced as part of the 2016/17 draft budget and will relate to properties with a waterfront connection. This will mean approximately 55 properties will be moved from the current SAR to the new SAR. The overall income will not be increased.

The proposed mooring pen licence fees enable the City to target a break even situation for the Port Coogee Marina inclusive of allowing for marina related infrastructure depreciation. Council could subsidise the impact of depreciation on pen leaseholders by charging lower pen licence fees but this would cost ratepayers up to \$484,000 per annum. This would not be financially prudent.

This would not be equitable on other ratepayers as the seawall and marina were constructed for the specific purpose and benefiting a select group of persons. There could be an argument that up to \$136,000 is for general use including the boardwalk, public toilets, bbq's and fishing platform. This argument is countered that any surplus generated from the operations of the marina will be reserved and put back into the marina.

Two costs contained within the draft budget for the non-marina assets are:

1. Groundwater Interception Drain (GID)



The aim of this water system is to limit the amount of nutrient rich groundwater in the precinct entering the marina waterways. The GID provides water for reticulation of the public open space landscaped areas and also provides water through a “third pipe” system available to each residential lot for use in gardens. There is a cost to maintaining this system which is budgeted at \$35,000 per annum. There is no additional charge envisaged for the GID to the end users of the system.

2. Sand Bypass

Every three years approximately 15,000 m³ of sand sediments accreted on the north side of the Port Coogee northern breakwater will have to be relocated to the southern side of the marina to provide a sediment feed to Coogee Beach, so as to offset the risk of erosion of that part of coastline. The cost for this activity is in the order of \$240,000. An annual charge of \$80,000 will be accrued to cover this cost. Again like the GID, the cost is allocated to the marina budget as the sand accretion to the north side and reduced volume on the south side is due to the construction of the Port Coogee breakwaters.

To fund part of the City's obligations contained in the WEMP agreement, PCD will pay the City approximately \$2.1m at the date of handover. These funds will be placed into the reserve and be drawn on to fund the continued implementation of the environmental management provisions including maintenance of the waterways and other eligible marina elements.

Strategic Plan/Policy Implications

Growing City

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

Infrastructure

- Community facilities that meet the diverse needs of the community now and into the future.
- Community infrastructure that is well planned, managed, safe, functional, sustainable and aesthetically pleasing.
- Partnerships that help provide community infrastructure.

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.
- A responsive, accountable and sustainable organisation.



- Manage our financial and infrastructure assets to provide a sustainable future.

Budget/Financial Implications

The proposed Deed of Handover for which endorsement is sought from Council provides the mechanism for Port Catherine Developments/Fraser Property Group to, in addition to the transferring of property and infrastructure at no cost, also to pay to the City moneys determined and negotiated in the form of:

- a) The 'Minimum Sum' amount for transferring of the Waterways Management Obligations;
- b) The "City's Proportion" of Pen Licence Fees received;
- c) The lease income for the upper floor of the Marina Services Building.

The Council's commitment also associated with the Handover Deed is:

- a) The short term casual employment of Fraser's Marina Manager;
- b) The cost of construction in due course of the southern toilet block; and
- c) The ongoing cost of providing and maintaining the non-potable water supply to current and future residences.

Separately the marina mooring pen fee schedule detailed in the Report sets out the proposed fees for existing pen licences that carry past Handover, and new pen licences, the income from these licences being necessary to fund the marina annual operating costs and provide an appropriate allowance for depreciation.

Legal Implications

The City is bound by:

- a) Section 3.58 of the *Local Government Act 1997* in respect to disposal of land whether by sale, leasing or licencing of Local Government owned or managed property. The lease of the portion of the Marina Services Building to Frasers was advised on 21 March 2016 for a period of fourteen days and no submissions were received.
- b) The Port Coogee Waterways Management Transfer Facilitation Agreement, Waterways Environmental Management Program, Port Coogee Marina Reserve Lease in respect to the required take-over of the Port Coogee Marina and the infrastructure associated with the environmental management program.



Community Consultation

Existing mooring pen holders have been advised by correspondence dated 1st April 2016 that matters concerning the Port Coogee Marina handover to the City are being considered by Council at the April Ordinary Council Meeting.

Risk Management Implications

The Risks associated with Council not endorsing the recommendations presented in this Report are significant.

Negotiations with Port Catherine Developments Pty Ltd (PCD) have provided a set of proposed inclusions to a Deed of Handover that balance the interests of both parties and provide a complying outcome in respect to the relevant controlling documents including the Port Coogee Waterways Management Transfer Facilitation Agreement.

The City is obliged to take over management of the Port Coogee Marina and the waterways and the environmental management program commitments as of 24 July 2016. It is the City officer's view that the Handover Deed inclusions provide the most satisfactory, best value, compliant (in respect to controlling documents) and lowest risk outcome for the City and for the current marina pen licence holders.

In the event that any of the recommendations are not endorsed or are varied there is the risk that PCD shall retreat from their current position on one or more other items, leaving the full suite of Handover Deed elements at risk. Additionally if a decision is made on an item that has the effect of being contrary to any of the various controlling documents, there is the risk of a negative response from state agencies such as the WAPC, EPA or DoT and/or legal action being brought by other entities.

A deferral of a decision on one or more of the items may limit the City's ability to be suitably ready for the takeover of the Marina on the 24th July 2016.

Attachment(s)

1. Annexure 1 Current Marina Pen Layout diagram
2. Annexure 2 Future Pen Layout & Remaining Boardwalk & Fishing Jetty Layout Diagram
3. Annexure 3 Proposed Marina Mooring Pen Fee Schedule
4. Annexure 4 Proposed New Port Coogee Mooring Pen Licence (draft)



Advice to Proponent(s)/Submissioners

N/A

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

Nil.

CLR KEVIN ALLEN RETURNED TO THE MEETING AT THIS POINT, THE TIME BEING 8.17 P.M.

THE PRESIDING MEMBER ADVISED CLR ALLEN OF THE DECISION OF COUNCIL IN HIS ABSENCE.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (MINUTE NO 5764) (OCM 14/4/2016) - NAMING OF RECREATION & AQUATIC FACILITY COCKBURN CENTRAL WEST (154/006) (S SEYMOUR-EYLES) (ATTACH)

RECOMMENDATION

That Council

- (1) apply the name *Cockburn ARC* to the recreation and aquatic facility at Cockburn Central West, based on the results of the community voting survey, and
- (2) approve funds of \$32,300 from the 2015/16 Municipal Budget Surplus for the development of the style guide, and the final trademarking of the proposed name.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr S Pratt SECONDED Cllr K Allen that Council:

- (1) apply the name STAR Centre Cockburn to the recreation and aquatic facility at Cockburn Central West, with STAR standing for Sports, Training, Aquatic and Recreation; and
- (2) approve funds of \$35,000 from the 2015/16 Municipal Budget Surplus for the development of the style guide and the trademarking of the proposed name.

MOTION LOST 5/4

MOVED Cllr S Portelli SECONDED Cllr L Sweetman that the officer's recommendation be adopted.

MOTION LOST DUE TO LACK OF AN ABSOLUTE MAJORITY OF COUNCIL 4/5

MOVED Cllr S Pratt SECONDED Deputy Mayor C Reeve-Fowkes that Council conducts a telephone poll of a minimum of 400 residents using two names, those being Cockburn ARC and STAR Centre Cockburn (Sports, Training, Aquatic and Recreation) and bringing the results to a Special Council meeting in due course.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

Council at its ordinary Council Meeting in February 2016 resolved that the naming of the new recreation and aquatic centre be deferred and that a four week community naming competition between the four shortlisted names be undertaken.

The four shortlisted names are: AVIVA Cockburn, Stadium Central, Requa Cockburn and Cockburn ARC.

Submission

N/A

Report

2163 people voted in total.

- 51% hard copy voting cards – 1112 people
- 49% online – 1051 people – 19% of whom visited the online voting platform voted.

Facebook paid advertising redirected people to the 'voting platform'

- 1st post (16 February 2016) - reached 69,961 people and secured 162 likes, 2 loves, 1 angry (emoji's)
- 2nd post (2 March 2016) – reached 18,422 people, 29 likes
- The paid advertising resulted in 2727 click throughs to voting platform from the two Facebook advertisements



- Of all people who visited the voting platform – 61% came via Facebook

Cockburn Chat Facebook page

As Cockburn Chat is a closed user group page, paid advertising does not reach it and businesses are not permitted to post on closed user group pages. The City requested the moderator of the site post the competition on Cockburn Chat which occurred and a staff member also shared it to the page.

Facebook comments

- Approximately 120 people commented on Facebook
- 36 of these comments didn't like any option
- Around eight comments were in relation to the lack of aboriginal names
- The remainder were just comments, not negative/ not offering alternative names
- Alternative names that were offered:
 - Success Stadium
 - City of Cockburn Aquatic & Recreation Centre
 - Cockburn Recreation & Aquatic Park
 - Cockburn Recreation Centre
 - Success Recreation & Aquatic Centre
 - Gateway Central
- Cockburn Sports Centre
- Despite material advising that this was about naming the City of Cockburn's Recreation and Aquatic Facility and not the Fremantle Football Club's facility, it was clear that many people still thought they were naming the Fremantle Football Club's facility, e.g. The Pavlich Centre.

The results of the combined online and hard copy votes were as follows:

Requa Cockburn – 11%

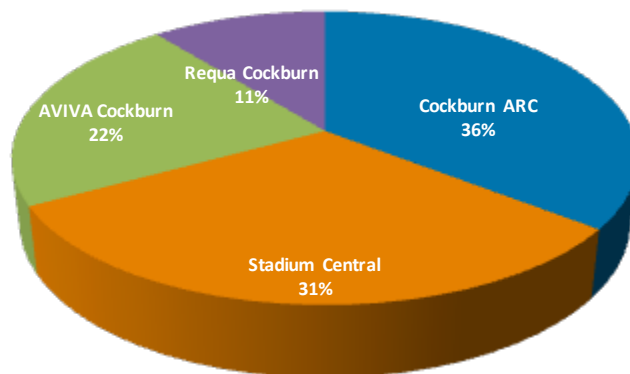
AVIVA Cockburn – 22%

Stadium Central – 31%

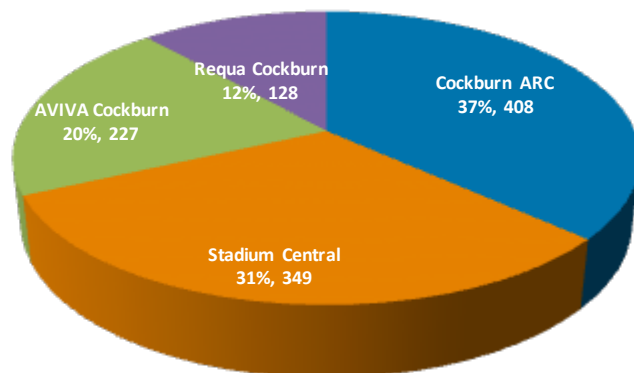
Cockburn ARC – 36%

Interestingly there was greater support for Cockburn ARC (45%) from those who voted in hard copy at South Lake Leisure Centre.

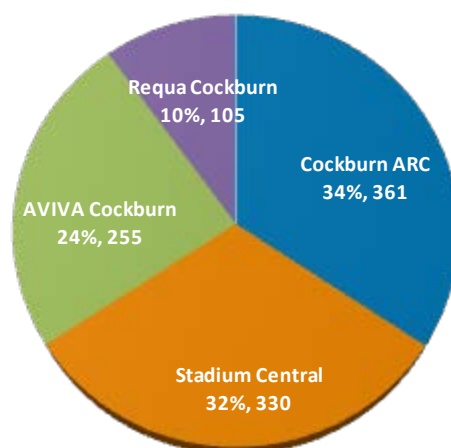
Online & Hard Copy -Total Votes



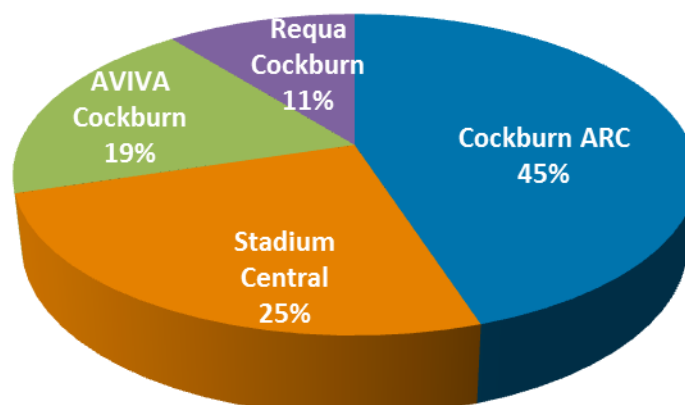
Hard Copy - Total Votes



Online - Total Votes



SLLC - Total Votes



Development of Brand and Brand Style Guide

Website

The new facility will require a dedicated and branded website to ensure that attendance / memberships meet targets. This will include details of hours, prices, employment, childcare, birthday parties, what's on, swim school, membership, café, personal training, ability to book online etc. This will be developed once the new centre Manager is employed and will be a priority together with developing the budget for the centre. The website requires detailed scoping but is likely to cost around \$100K.

Once a name is approved, three further logo concepts need to be developed (\$2,000) and the preferred logo agreed by the reference group. A brand style guide (\$30,000) needs to be developed to inform all future marketing material – digital and printed, signage, uniforms etc. (see attached example from Watermarc in Victoria). Final trademark registration will also then be required (\$300 for 10 years). There is currently no budget allocated for these items in the 2015/16 budget hence the recommendation for Council to allocate funds from the 2015/16 surplus.

Strategic Plan/Policy Implications

Infrastructure

- Facilities that promote the identity of Cockburn and its communities.

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.

Budget/Financial Implications

- Develop three further concepts for the final logo - \$2,000

- Develop Brand Style Guide - \$30,000
- Final trademark registration per name (10 years) - \$300

Legal Implications

N/A

Community Consultation

The marketing of this competition was undertaken via the website, intranet, newspaper advertising, posters, billboards, voting cards at City locations, including the main administration building, South Lake Leisure Centre, Libraries and youth centre, wi-fi, media release, social media, e-newsletters, internally via email signatures and computer screen savers and at the City's concerts and Jetty to Jetty swim. See attachment for more detailed schedule.

The survey closed on 15 March 2016.

Risk Management Implications

The naming of the facility is the first step in the process of developing the style guide which determines the logo, colours, font and all the other 'style matters' that gives the new facility its unique identity as the premier facility in the region. Once this has been resolved, a concerted marketing of the facility can be started in earnest across the City and in the southwest metropolitan region generally. A marketing program that in the first instance culminates in a grand opening and leads to ongoing name recognition is an essential ingredient to long term financial success of the facility. The anticipated deficit in the first year is \$611,000 which is based on a quality well managed marketing plan. A delayed marketing plan could result in an increased deficit.

The builders advise that 93% of the equipment and materials that they require have been ordered. The matters outstanding are in part related to signage and some colour selection. A decision on the name will permit the immediate development of the style guide and provide an opportunity for the builder to order signs and colours that match the City's requirements.

Council has had a deal of community involvement in the naming process through focus groups and the recently completed survey. Reputational damage to the City could occur if the matter is again deferred for community consultation.

Further delay may also perpetuate the perception by some that this is a Fremantle Football Club facility.



Attachment(s)

1. Marketing Schedule
2. Example Style Guide

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

MR DANIEL ARNDT LEFT THE MEETING, THE TIME BEING 8.40 P.M. AND DID NOT RETURN.

17.2 (MINUTE NO 5765) (OCM 14/4/2016) - REPORT ON IMPOUNDED VEHICLE FENTON WAY, HAMILTON HILL (112/001) (R AVARD) (ATTACH)

RECOMMENDATION

That Council

- (1) receive the report and advise the owner of the vehicle left on Fenton Way Hamilton Hill that the vehicle was impounded lawfully and in accordance with the City's standard operating procedures; and
- (2) write to the State Government Minister of Police seeking a change to Police policy to allow local government to be able to gain the ownership details of a vehicle should they have reason to believe it is abandoned.

COUNCIL DECISION

MOVED Cllr L Sweetman SECONDED Cllr S Portelli that Council:

- (1) receive the report;
- (2) advise the owner of the vehicle left on Fenton Way, Hamilton Hill, that the vehicle was impounded lawfully and in accordance with the City's standard operating procedures and that as a gesture of goodwill the City of Cockburn will cover costs of impound and return of the vehicle to the owner;

- (3) write to the State Government Minister of Police seeking a change to Police policy to allow Local Governments to be able to gain the ownership details of a vehicle should they have reason to believe it is abandoned; and
- (4) amend Rangers standard operating procedure to require a notice to be left in the letter box of the owner of the property where it can be reasonably assumed that a vehicle believed to be abandoned may be owned.

CARRIED 9/0

Reason for Decision

It would be reasonable to suspect that reported vehicles situated on the front or rear verge of any properties may be associated with the owner or occupier of the adjacent property. Providing a simple safeguard against the unfortunate and preventable situation that occurred on Fenton Way is in the interest of residents, ratepayers and the City's administration.

Background

Clr Clr Sweetman at the Ordinary Council Meeting of 10 March 2016 requested a *Matter Noted for Investigation, Without Debate* as follows:

A report to be brought back to the April Ordinary Council Meeting detailing the process of how the owners of cars reported as abandoned or impounded are notified.

The report should also include a recommendation on how to manage a suitable outcome to the recent impounding of a car in Hamilton Hill, and feasibility of holding yards closer to the City.

Submission

N/A

Report

A regular role of rangers is dealing with abandoned vehicles (AV) across the City with the figures below indicating the extent of the activity.



- 2013/2014 – 506 AV complaints – 108 impounded
- 2014/2015 – 641 AV complaints – 150 impounded
- 2015/2016 – 740 AV complaints – 320 impounded.

There has been a significant number of vehicles being abandoned and not claimed as it is understood it is cheaper today to abandon a vehicle and not claim it as there is a charge to dispose of a vehicle now as scrap metal prices have fallen substantially. The City is also unable to gain the name of the owner from the Police until the vehicle is impounded due to a change in Police procedures. The significant increase in impounded vehicles over the past year has been experienced by most local governments.

Given the number of vehicles impounded the City is unable to store the vehicles at its Council depot.

A standard operating procedure (SOP) is used by rangers to deal with reports of abandoned vehicles and the process to be followed when impounding vehicles. A copy of the SOP is attached to the agenda. In summary the process is as follows:

1. Collect all relevant details of the vehicle that are available.
2. Mark tyres and photograph vehicle.
3. Contact the Police to see if the vehicle is of any interest to them (has it been stolen etc.). If the vehicle is stolen it becomes a police matter.
4. If the owner's details are known rangers request the owner remove the vehicle.
5. Place notices on the vehicle advising that it has been reported and that the vehicle needs to be removed within 24 hours.
6. After 24 hours usually between 5-7 days the ranger revisits the site to see if the vehicle has been removed.
7. If the vehicle has not been removed the ranger checks again to see if the vehicle is of interest to the Police i.e. has it been reported stolen or of interest for some other reason.
8. If it is of no interest to the Police the City's contractors (Mannheim's) remove the vehicle and impound it.
9. The rangers contact the police and advise that the vehicle is impounded and are only then provided with the owner's details. The owners are then written to advising that the vehicle is impounded and where it can be recovered from.
10. If the vehicle is not recovered within 2 months it is disposed of, usually for scrap.

In relation to the Fenton Way Hamilton Hill impounded vehicle. The Rangers received a report from a member of the public on a vehicle

that had been left in the same place for at least 4 months. An aerial photograph taken of the City shows the vehicle located at the reported location on 20 November 2015. As a result of the complaint the City's Ranger Services, visited the site on the same day as the report, the 16 February 2016.

The vehicle a badly damaged Daihatsu Charade Registration Number 1DNQ 270 was parked at an angle partly on a crossover that was no longer in use. There was no house or property that could be readily identified with the location of the vehicle and the vehicle was considered by the ranger as likely to be abandoned.

The attending Ranger at the time checked with the Western Australian Police Service (WAPOL) to determine if the vehicle was stolen or of interest to them. The Police advice was that they had no interest in the vehicle but did note its location and registration details. Note that the WAPOL will not provide the City with information of the owners of a vehicle until such time as the vehicle is impounded by the City.

As a consequence the attending officer then placed on the vehicle an Orange sticker advising the owners of the vehicle and any members of the public and other enforcement authorities that the matter had been reported and an enquiry process into this vehicle had commenced. At the same time a 24 hour impound notice number 402828, was placed on the vehicle advising the party responsible for the vehicle of the requirements to move the vehicle within 24 hour period of the notice being issued otherwise it would be impounded.

On 22 February 2016, the City's Ranger revisited the location and found that the vehicle in question had not moved. The ranger then undertook one last investigation with the WAPOL to determine if the vehicle had since been reported stolen or was of interest to them. The vehicle remained of no interest. The vehicle was impounded and taken away 6 clear days from the date of the impounding notice by the City's contractors Manheim at Perth Airport. Manheim's at the time were the only company that offers a vehicle removal and holding service for vehicles impounded by Councils.

On 25 February 2016 at 12.22 am a person contacted the WAPOL to report the vehicle stolen. On the same day at 13.28pm he contacted the City and was advised that the vehicle had been impounded.

Once the impoundment has occurred and the owner details are obtained from the Police the City then sends to the registered owner of the vehicle a letter advising the owner of the impoundment of the vehicle and the location where the vehicle can be claimed. The owner is then required to pay the required schedule fees for it release. This



advice of the impoundment to the owner was made by telephone on 25 February 2016 and hence it had not been stolen.

The owner of the vehicle is also advised that a failure to claim the vehicle within 2 months of being impounded may also result in the vehicle being sold off and the City retrieving some costs off.

Day to day access to the property is via a wide crossover off Phoenix Road and not off Fenton Way. The property runs from Phoenix Road through to Fenton Way as can be seen from the attached map. The vehicle was parked mainly on an old cross over on the back of the property. There is an old gate at the rear of the property. It would be a reasonable assumption that should the owner of the vehicle own the house they would park the damaged vehicle on their property rather than on the City verge. It would also be expected that if the property owner did intend to leave the vehicle on the verge for some time it would be parked clearly on the crossover rather than in a way that could suggest it was driven off the road and abandoned.

The vehicle was impounded lawfully and in accordance with the City's procedures.

The City has a three (3) year agreement with Manheim's for the removal and storage of impounded vehicles. Pickles are another vehicle disposal firm but do not impound and store vehicles; although, they do have a premises in Bibra Lake. With the expiry of the current agreement with Manheim the City will again seek applications from firms to provide this service.

Strategic Plan/Policy Implications

Community & Lifestyle

- Communities that take pride and aspire to a greater sense of community.
- Safe communities and to improve the community's sense of safety.

Budget/Financial Implications

There are no financial obligations on the City at this time. Manheim will charge the owner \$323.40 to retrieve the car from their yard. There will be additional costs to the owner to have the car moved. These costs are not known as it is a decision by the owner on where the vehicle is returned to and by what method.



Legal Implications

The provision for the officers undertaking this action is located within Clause 48 of the City's Parking and Parking Facilities Local Law 2007 (as amended) extract of the relevant section is as below:

No Obstruction of Public Places

48. (1) *A person shall not park a vehicle in a public place so as to cause an obstruction.*
- (2) *For the purposes of sub-clause (1):*
- (a) *a vehicle which is parked in any portion of a public place where vehicles may not lawfully be parked is deemed to be causing an obstruction;*
 - (b) *a vehicle that is parked in any portion of a public place where vehicles may lawfully be parked does not cause an obstruction, unless –*
 - (i) *the vehicle is so parked for any period exceeding 24 hours, without the consent in writing of the CEO or an authorised person;*

Community Consultation

N/A

Risk Management Implications

The enforcement of the City of Cockburn Local Laws is a clear function of the administration of the City of Cockburn. The administration of Local Laws is rarely brought to Council for consideration due to their essential administrative nature.

Any influence by Council in this operational function without substantial justification would set a precedent where individuals who have been infringed for any reason could seek recourse from Council to have an infringement withdrawn.

Attachment(s)

1. Photographs showing the vehicle in-situ with the advice stickers in place and an aerial photograph highlighting the location of the vehicle.
2. Standard Operating Procedure (SOP)



Advice to Proponent(s)/Submissioners

N/A

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

Nil.

18. EXECUTIVE DIVISION ISSUES**18.1 (MINUTE NO 5766) (OCM 14/4/2016) - 360 DEGREE ASSESSMENT TOOL ASSESSOR SELECTION (027/002) (S CAIN)****RECOMMENDATION**

That Council notes the information contained in the report.

COUNCIL DECISION

MOVED Clr S Portelli SECONDED Clr S Pratt that the recommendation be adopted.

CARRIED 9/0**Background**

At the Ordinary Council Meeting of 10 March 2015, Cr Lee-Anne Smith raised the following Matter for Investigation Without Debate:

“A report to be brought back to the April Ordinary Council Meeting stating: When it comes to choosing who gives feedback in a 360 degrees feedback process, who would generally choose the members who would take part in that 360 degrees performance feedback, and whether it would be a mix of subordinates feeding into the CEO. Basically, in the report to come back, who generally makes up the members that give feedback on a 360 degrees feedback process”.

Submission

N/A

Report

Wikipedia provides the following definitions about 360 degree performance assessments:

"In [human resources](#) or [industrial psychology](#), 360-degree feedback, also known as multi-rater feedback, multi source feedback, or multi source assessment, is feedback that comes from members of an employee's immediate work circle. Most often, 360-degree feedback will include direct feedback from an employee's subordinates, peers (colleagues), and supervisor(s), as well as a self-evaluation. It can also include, in some cases, feedback from external sources, such as customers and suppliers or other interested stakeholders.

In the selection of the performance assessors, there is no hard rule to apply. The essential ingredient, however, is that the assessor has sufficient knowledge of the candidate in order to make a sound and unbiased assessment.

Jai Ghorpade, a professor of management in the College of Business Administration at San Diego State University says that "involving multiple constituents broadens the scope of information that is gathered. However, a mere increase in the scope of information may not necessarily yield data that are more accurate, impartial, and competent than those provided by the individual manager..." (Source: <http://humanresources.about.com> 'Recommended Methods for your 360 Feedback Process').

In the same article Professor Ghorpade goes on to say that "it is important that organizations allow employee input into the rater (ie assessor) selection process. Perhaps the employee selects several peers, customers, direct reports and knowledgeable co-workers."

The essential elements of the 360 degree assessment are as follows:

- Assessors (raters) are nominated by the person being assessed;
- They must have solid knowledge of the skills and attributes of the person being assessed ;
- Subordinates can come from various levels of the organisation, but would include immediate subordinates and only others that meet the attributes of the point above;
- Selection of external parties; i.e. peers or the like, has also to meet the requirement for being knowledgeable about the candidates overall performance.

With regard to the input from supervisors, in this case members of the CEO Performance Committee, the literature offers the following pointers:



- The supervisor of the employee and the employee being assessed should always fill out the 360 degree assessment.
- The individual's rating of their own performance is important for later comparison with the assessment group's feedback.
- The supervisor's feedback is important, too, especially since, in most instruments, this feedback is not averaged with the rest of the feedback from other assessor.

Strategic Plan/Policy Implications

Leading & Listening

- A skilled and engaged workforce.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Risk Management Implications

There are no risks identified with this matter.

Attachment(s)

N/A

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

(MINUTE NO 5768) (OCM 14/4/2016) - EXTENSION OF TIME

NOTE: DURING DISCUSSION ON ITEM 19.1 IT WAS:



COUNCIL DECISION

MOVED Deputy Mayor C Reeve-Fowkes SECONDED Cllr B Houwen that Council extend the meeting for 30 minutes, the time being 8.51 p.m. in accordance with Council's Standing Orders Local Law Clause 14.4.

CARRIED 9/0

19.1 (MINUTE NO 5767) (OCM 14/4/2016) - COOGEE BEACH RESERVE DOGS ON LEADS (144/003) (R AVARD) (ATTACH)

RECOMMENDATION

That Council

- (1) adopts the proposed City of Cockburn (Local Government Act) Amendment local law 2013 for advertising;
- (2) give state-wide public notice stating that:
 1. The City of Cockburn proposes to amend the City of Cockburn (Local Government Act) Local Laws 2000 the purpose of which is to delete 'Reserve 24306' from the list of places where dogs are restricted under Section 2.6 (1) (d) and replace it with 'Portion of reserve 24306 being the beach and dunes of Coogee Beach Reserve'. The effect of which is to allow dogs on leads on a portion of Reserve 24306, and not allow dog on the beach and the dunes of Coogee Beach Reserve.
 2. A copy of the proposed local law may be inspected or obtained at any place specified in the notice.
 3. Submissions about the proposed local law may be made to the City before the day specified in the notice, being not less than 6 weeks after the notice is given.
- (3) provide a copy of the proposed local law and notice to the Minister for Local Government.

COUNCIL DECISION

MOVED Cllr K Allen SECONDED Cllr L Sweetman that Council:

- (1) as recommended;
- (2) as recommended:
 1. The City of Cockburn proposes to amend the City of



Cockburn (Local Government Act) Local Laws 2000 the purpose of which is to delete 'Reserve 24306' from the list of places where dogs are restricted under Section 2.6 (1) (d) and replace it with 'Reserve 24306 south of Powell Road, and a portion of Reserve 24306 north of Powell Road, being the beach and dunes of Coogee Beach Reserve' including north and south of Powell Road beaches. The effect of which is to allow dogs on leads on a portion of Reserve 24306, north of Powell road and continue to restrict dogs on the beach and the dunes of Coogee Beach Reserve, including north and south of Powell Road beaches.

2. as recommended

3. as recommended

(3) as recommended.

CARRIED 8/1

Reason for Decision

The map previously provided in the Agenda report did not correctly identify the areas being considered. A replacement map is included as attachments to the minutes to identify a more accurate portion of reserve 24306, north and south of Powell Road, that dogs are proposed to be allowed on leads.

An amendment has also been made to the proposed City of Cockburn (Local Government Act) Amendment Local Laws 2000 to reflect the changes above and a new attachment is provided.

Background

In accordance with Council standing orders Councilor Kevin Allen requested that a notice of motion be placed on the agenda for the 14th April 2016 Ordinary Council meeting an amendment to the City of Cockburn Local Laws (2000) to allow dogs on leads on Coogee Beach Reserve.

The notice of motion is as follows:

"In accordance with the requirements of section 3.12 of the Local Government Act seek to amend the City of Cockburn Local Law 2000



(as amended) by deleting Section 2.6 (1) (b) "Reserve 24306 known as Coogee Beach" to allow dogs on leads on Coogee Beach Reserve 24306."

Submission

Not applicable.

Report

The City of Cockburn Local Laws identifies Coogee Beach (Reserve 24306) as the only reserve under Council control and management that does not allow dogs on leads. There are 27 reserves that are identified in the Local Laws where dogs can be off leads.

Under section 2.6 (1) of the City Local Laws "A person liable for the control of a dog shall prevent that dog from entering or being in any of the following places:

(d) Reserve 24306 known as Coogee Beach".

To allow dogs on Coogee Beach we would need to repeal section 2.6 (1) (d). However, Reserve 24306 includes the beach area of Coogee beach which is a very popular swimming area and includes the shark net area. It is proposed that Council allow dogs of leash on the portion of the reserve excluding the beach and dunes area of Coogee Beach on Reserve 24306.

Purpose

Is to delete 'Reserve 24306' from the list of places where dogs are restricted under Section 2.6 (1) (d) and replace it with 'Portion of reserve 24306 being the beach and dunes of Coogee Beach Reserve'.

Effect

Is to allow dogs on leads on Reserve 24306, and restrict dogs on leads on the beach and the dunes of Coogee Beach Reserve.

The Process

If Council adopts this local law for advertising, the public comment period will be open for six weeks. The item will then be brought back to Council for adoption whereby all submissions will be considered. If there are significant changes to the amendments, the item goes back for a six week submission period again. The amendment gazettal is then advertised before the local law will come in to effect. The



amendment is then reviewed by the Joint Standing Committee on Delegated Legislation.

Strategic Plan/Policy Implications

Community & Lifestyle

- Promotion of active and healthy communities.

Leading & Listening

- Effective and constructive dialogue with all City stakeholders.

A Prosperous City

- Creation and promotion of opportunities for destination based leisure and tourism facilities.

Budget/Financial Implications

Costs associated with any the amendments to the Local Laws are of a minor nature and can be dealt with in current budget allocations.

Legal Implications

There is a requirement to meet section 3.12 of the Local government Act which relates to making and amending a Local Law.

Community Consultation

The Act has very specific requirements in relation to amending a Local Law in relation to advice to the community. The City will meet its statutory obligations and also consult in accordance to Council's Community Consultation Policy.

Risk Management Implications

There are frequently strong views held by the community as to the areas dogs can and cannot be. Coogee Reserve is very popular especially for families. Any proposed amendments to the status quo in relation to dogs will create considerable debate and potential criticism of Council.

Attachment(s)

1. Plan of Coogee Beach Reserve
2. Proposed *City of Cockburn (Local Government Act) Amendment Local Law 2016*



Advice to Proponent(s)/Submissioners

N/A

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

Nil.

20 (OCM 14/4/2016) - 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 (OCM 14/4/2016) - MATTERS TO BE NOTED FOR INVESTIGATION WITHOUT DEBATE

- ❖ Clr Pratt – a report be brought back to the May Ordinary Council Meeting on the installation of fish cleaning stations at popular fishing locations within the City of Cockburn in particular the Ammo Jetty.

23. CONFIDENTIAL BUSINESS

(MINUTE NO 5769) (OCM 14/4/2016) - MEETING TO GO BEHIND CLOSED DOORS

COUNCIL DECISION

MOVED Mayor L Howlett SECONDED Deputy Mayor C Reeve-Fowkes that, pursuant to section 5.23(2)(a) of the Local Government Act 1995, Council proceeds behind closed doors to consider Item 23.1.

CARRIED 9/0

Reason for Decision

Item 23.1 is a confidential matter.

NOTE: MEETING WENT BEHIND CLOSED DOORS, THE TIME BEING 8.55 P.M.



NOTE: AT THIS POINT, STAFF AND PUBLIC LEFT THE MEETING.

(MINUTE NO 5770) (OCM 14/4/2016) - SUSPEND STANDING ORDERS

COUNCIL DECISION

MOVED Cllr L Sweetman SECONDED Deputy Mayor C Reeve-Fowkes that Council suspend Standing Orders.

CARRIED 9/0

Reason for Decision

To give Council flexibility to discuss Item 23.1.

(MINUTE NO 5771) (OCM 14/4/2016) - RESUME STANDING ORDERS

COUNCIL DECISION

MOVED Cllr K Allen SECONDED Cllr B Houwen that Council resume Standing Orders.

CARRIED 9/0

23.1 (MINUTE NO 5772) (OCM 14/4/2016) - MINUTES OF THE CHIEF EXECUTIVE OFFICER PERFORMANCE & SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE MEETING - 31 MARCH 2016

RECOMMENDATION

That Council adopt the Minutes of the Chief Executive Officer Performance & Senior Staff Key Projects Appraisal Committee Meeting held on Thursday, 31 March 2016, as attached to the Agenda, and adopt the recommendations therein.

COUNCIL DECISION

MOVED Deputy Mayor C Reeve-Fowkes SECONDED Cllr K Allen that Council:

- (1) as recommended;

- (2) as recommended, with the addition of the Director of the South West Group, Mr Mick McCarthy as an additional substitute if Ms Allison Hailes of WALGA or the Chief Executive Officer of the UDIA, Mr Tim Youe is unavailable.

CARRIED 9/0

Background

The Chief Executive Officer's Performance and Senior Staff Key Projects Appraisal Committee met on 31 March 2016. The minutes of that meeting are required to be presented to Council and its recommendations considered by Council.

Submission

The Minutes of the Committee meeting are provided as a confidential attachment 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

Leading & Listening

- A responsive, accountable and sustainable organisation.
- A skilled and engaged workforce.

Budget/Financial Implications

Committee minutes refer.

Legal Implications

Committee minutes refer.



Community

N/A

Risk Management Implications

Committee minutes refer.

Attachment(s)

Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee meeting held 31 March 2016 are provided to the Elected Members as a confidential attachment.

Advice to Proponent(s)/Submissioners

The CEO and Senior Staff have been advised that this item will be considered at the April 2016 Ordinary Council Meeting.

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

Committee Minutes refer.

NOTE: AT THIS POINT, THE TIME BEING 9.19 P.M. STAFF AND PUBLIC RETURNED TO THE MEETING.

**24 (MINUTE NO 5773) (OCM 14/4/2016) - 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 Cllr B Houwen SECONDED Cllr K Allen the recommendation be adopted.

CARRIED 9/0

25 (OCM 14/4/2016) - CLOSURE OF MEETING

The meeting closed at 9.20 p.m.

CONFIRMATION OF MINUTES

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

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



PEN LENGTH (Metres)	PEN WIDTH (Metres)	REF. 2014 PCD Construction Contribution Fee (CCF) (ex GST)	REF. 2014 PCD Annual Licence Fee (ex GST)	PCD's Annualised CCF & Annual Licence Fee (ex GST)	McGees Recommended Rates (ex GST)	Other Marina Rates				Proposed Annual Starting (2016/17) Pen Licence Fees (ex GST)
						DoT Challenger Fremantle '15/16 (ex GST)	DoT Fishing Boat Harbour Fremantle '15/16 (ex GST)	DoT Hillarys '15/16 * (ex GST)	Co Mandurah Ocean Marina '15/1 6 & '16/17 (ex GST)	
8		\$26,910 (10 yr) - \$4,077 (1 Yr)	\$1,263	\$3,954 (10 Yr) -> \$5,340 (1 Yr)						\$4,000
10	4	\$38,415 (10 Yr) - \$5,821 (1 Yr)	\$1,725	\$5,566 (10 Yr) -> \$7,545 (1 Yr)	\$5,000	\$5,338	\$6,150	\$4,869	\$4,355	\$5,000
12	4.4	\$49,371 (10 Yr) - \$7,535 (1 Yr)	\$2,196	\$7,133 (10 Yr) -> \$9,731 (1 Yr)	\$6,545	\$6,406	\$7,380	\$5,842	\$5,225	\$6,545
12	6.5				\$6,655					\$6,655
12	7.2									\$7,000
12	8									\$8,000

15	5	\$68,575 (10 Yr) - \$10,459 (1 Yr)	\$2,969	\$9,827 (10 Yr) -> \$13,428 (1 Yr)	\$8,523	\$8,007	\$9,225	\$7,303	\$6,532	\$8,523
15	7.5				\$8,659					\$8,659
16	5.2	\$75,577 (10 Yr) - \$11,523 (1 Yr)	\$3,254	\$10,811 (10 Yr) -> \$14,776 (1 Yr)	\$9,309	\$8,541	\$9,840	\$7,790	\$6,967	\$9,309
20	5.7	\$99,773 (10 Yr) - \$16,818 (1 Yr)	\$4,391	\$14,368 (10 Yr) -> \$21,209 (1 Yr)	\$12,273	\$10,676	\$12,300	\$9,737	\$8,709	\$12,273



**Coogee Beach Reserve 24306
Dog Permissions**

LOCAL GOVERNMENT ACT 1995
City of Cockburn
 (LOCAL GOVERNMENT ACT) AMENDMENT LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the City of Cockburn resolved on to adopt the following local law.

1. Citation

This local law may be cited as the *City of Cockburn (Local Government Act) Amendment Local Law 2016*.

2. Commencement

This local law comes into operation 14 days after the day of its publication in the *Government Gazette*.

3. Principal Local Laws

The *City of Cockburn (Local Government Act) Local Laws 2000* as published in the *Government Gazette* on 9 October 2000 and as published and amended in the *Government Gazette* on 13 November 2001, 15 November 2002, 26 September 2003, 25 November 2003, 27 July 2004, 17 May 2005, 11 January 2008, 10 December 2010, 16 December 2011, 22 June 2012, and 20 December 2013 is referred to as the Principal Local Law. The Principal Local Law is amended.

4. Part II amended

In clause 2.6 (1) (d) delete the following wording:

Reserve 24306 known as Coogee Beach.

and insert the following wording:

Reserve 24306 south of Powell Road, and a portion of Reserve 24306 north of Powell Road being the beach and dunes of Coogee Beach Reserve, including north and south of Powell Road Beaches

Dated: _____

The Common Seal of the City of Cockburn was affixed under the authority of a resolution of Council in the presence of:

LOGAN K. HOWLETT, Mayor

STEPHEN CAIN, Chief Executive Officer