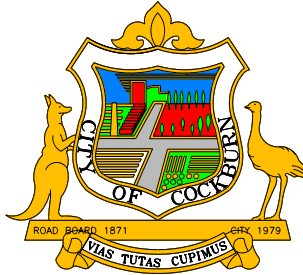


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR  
TUESDAY 15 JANUARY 2002**



## CITY OF COCKBURN

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 15 JANUARY 2002 AT 7:30 P.M.

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**1. DECLARATION OF MEETING**

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

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

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

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

**5. APOLOGIES AND LEAVE OF ABSENCE**

Clr L. Humphreys	-	Leave of Absence
Clr M. Reeve-Fowkes	-	Apology
Clr I. Whitfield	-	Apology

**6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**Mr Bert Renner - Ordinary Council Meeting - 18 December 2001 - Public Question Time** - advised that there was a rubbish bin located in front of a plaque at Coogee Beach which should be moved. He was also concerned

about the increased workload of the CEO and suggested the Mayor should be able to assist.

A letter dated 20 December 2001 advised that the bin at Coogee Beach will be relocated shortly. It also stated that the current working arrangement between the Mayor and the CEO reflects the intention of the Local Government Act 1995, which provides a clear definition of responsibilities for the Mayor, Elected Members and the Chief Executive Officer which are rigidly followed at the City.

**7. PUBLIC QUESTION TIME**

**8. CONFIRMATION OF MINUTES**

**8.1 (OCM1\_1\_2002) - ORDINARY COUNCIL MEETING - 18/12/01**

**RECOMMENDATION**

That the minutes of the Ordinary Council Meeting held on 18 December 2001 be accepted as a true and accurate record.

**COUNCIL DECISION**

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

**10. DEPUTATIONS AND PETITIONS**

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

Nil

**12. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENT BEFORE THE MEETING**



### 13. COUNCIL MATTERS

#### 13.1 (OCM1\_1\_2002) - BOUNDARY RATIONALISATION - FARRINGTON ROAD, LEEMING (1113471) (DMG) (ATTACH)

**RECOMMENDATION**

That Council not pursue the issue of rationalising the District boundary between the Cities of Cockburn and Melville east of the Kwinana Freeway, Leeming, at this stage, however, reconsider the matter following the completion of the current review involving the boundary being located along Farrington Road, west of the Kwinana Freeway, from North Lake Road.

**COUNCIL DECISION****Background**

At the December 2001 Council Meeting, Clr Oliver requested that a report be prepared and presented to Council, on the possibility of moving Council's boundary, east of the freeway to the northern side of Farrington Road, to Karel Avenue and that the City of Melville be requested to consider such a boundary adjustment.

Previous to that, at the November 2001 Council Meeting, it was requested that a report be prepared on making the entire length of Farrington Road, the boundary between the Cities of Cockburn and Melville.

A Report was subsequently prepared and circulated to Elected Members through the "Councillors Info" publication.

**Submission**

N/A

**Report**

There would appear to be some concern amongst Elected Members that there remains an inequity in the northern/southern boundary between the Cities of Cockburn and Melville. This concern surrounds the presumption that the boundary should be aligned with Farrington Road, for its entire length between North Lake Road, North Lake and Karel Avenue, Leeming.

While this issue has been raised before, the City of Melville has shown no interest in pursuing this option, preferring to concentrate on that part of Farrington Road west of the Kwinana Freeway.

Consequently, following the canvassing of the opinions of affected landowners and residents of the North Lake area, Council agreed to support the realignment of the District boundary to coincide with the Farrington Road reserve between Kwinana Freeway and North Lake Road.

It is considered important to contemplate the merits of the boundary east and west of the Kwinana Freeway as two separate initiatives.

Therefore, it is suggested that the current issue, dealing with the section of Farrington Road west of the Freeway, be pursued at this stage and once the formalities are concluded, the prospect of a boundary adjustment east of the Freeway be resurrected and examined separately to enable the situation to be analysed in its own right.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Nil

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

Nil

**13.2 (OCM1\_1\_2002) - APPOINTMENT FOR VACANCIES ON THE COCKBURN/SPLIT SISTER CITY COMMITTEE (1021) (LJCD)**

<p><b>RECOMMENDATION</b> That Council:-</p> <p>(1) appoints Mr Marinko Pecotic and Mr John Grljusich as Community representatives and ..... (Elected Member) to the Cockburn/Split Sister City Committee, with ..... (Elected Member) as Deputy Delegate; and</p> <p>(2) review its commitment to the Sister City Arrangements with Split (Croatia) and Yueyang (China) currently in place, prior to the adoption of the 2002/03 budget.</p> <p><b>TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL</b></p>
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## COUNCIL DECISION

### Background

The vacancies which occurred on the Cockburn/Split Sister City Committee, were due to the non-attendance of two Committee members, namely Mrs M Vujcic and Mrs M Lacman. An advertisement was placed in the Cockburn Herald inviting nominations from interested persons to become a member of the Committee to fill the vacancies available on the Committee. This procedure was carried in accordance with the Operational Guidelines of the Committee adopted by Council in 1996, although the advertisement called for three vacancies, on the premise that only one of the Council appointments had been filled. The Committee was informed that the advertisement of three vacancies on the Committee was incorrect and that in fact only two vacancies existed.

The Cockburn/Split Sister City Committee dealt with the nominations received, at its meeting on 12 December 2001, when 10 community representatives were elected to the committee, with no representation from Council at that time.

Nominations were received from Mrs Diana Unkovich, Mr Marinko Pecotic, Mr John Grljusich and Mrs Denisa Zaknich.

### Submission

As there were four (4) nominations for two vacancies, the Committee decided by a motion to conduct a secret ballot and the results of the ballot were:-

Mrs Diana Unkovich	2
Mr Marinko Pecotic	6
Mr John Grljusich	5
Mrs Denisa Zaknich	1

Therefore, based on the results of the secret ballot, the Committee recommendation was:

Moved Mr Y Radich seconded Mr I Svilicich, that Marinko Pecotic and John Grljusich be appointed to fill the vacancies on the Cockburn/Split Sister City Committee.

**CARRIED**

## Report

On the 5<sup>th</sup> November 1996 Council adopted the Cockburn / Split Sister City Committee Operational Guidelines (copy attached) and in respect to the membership of the Committee Clause 3.1 thereof reads:-

*3.1 The Committee shall comprise a maximum of twelve (12) voting members made up of two (2) Councillors appointed by Council and ten (10) members of the community, in addition to the presence of Council Officers as determined by the Chief Executive Officer who will be non voting.*

Council's contribution to the membership of the Committee is covered by clause 3.8 of the Operational Guidelines and it states that "Two (2) Councillors are to be elected to the Committee by Council together with a Deputy Delegate for a term of twelve (12) months." This clause in part has been satisfied with the appointment of Councillor Allen to the Committee. However, Council may elect another Councillor to sit on the Committee along with a Deputy Delegate.

If the appointment of two community representatives is accepted and Council elects another member as well as a Deputy Delegate to the Committee then the Committee membership structure will be in accordance with the Operational Guidelines.

Clause 3.10 of the Operational Guidelines reads as follows:-

*3.10 Any member may resign at any time by advising his or her resignation to the Committee in writing and the Committee must advertise such casual vacancy and recommend a replacement to Council. The replacement must be endorsed by Council.*

Further, Clause 3.11 states:-

*3.11 A Committee member who is absent from three (3) consecutive meetings without leave being granted or an apology shall automatically forfeit membership and the vacancy filled as herein provided (ref. 3.10).*

The vacancies which occurred on the Committee were advertised in accordance with clause 3.10 and the Committee has decided upon whom it wishes to fill the vacancies on the Committee. The endorsement process of the recommendation of the Committee mirrors section 5.10(1) of the Local Government Act 1995, which in effect states that Council is to appoint persons to the Committee.

In summary, the options open to Council are:-

- Accept the recommendation of the Committee.
- Not accept the recommendation of the Committee and appoint alternative Community nominees to the Committee.
- Not appoint any further community representatives to the Committee (in recognition of the difficulty the Committee has experienced in recent times in being unable to achieve a quorum).
- Appoint an additional Elected Member (and Deputy) to the Committee (as per clause 3.8 of the Operational Guidelines).

Any of these options are open for Council to consider, as clause 3.1 of the Guidelines states the Committee shall comprise a **MAXIMUM** of 12 persons (being 2 Elected Members and 10 Community representatives).

The recommendation presented by the Administration is in conformity with the Council adopted Guidelines of 1996. However, it is noted that the Guidelines for the Committee have not been reviewed since.

It is also noted that neither this Committee, nor the Cockburn/Yueyang (China) Sister City Committee has been active in pursuing the original objectives of their establishment. Therefore, it is considered appropriate to review the arrangements currently in place and make a recommendation to Council on the suitability of these Agreements and whether Council should continue its involvement with them into the future.

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

Key Result Area "Managing Your City" refers.

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

N/A

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

Nil.

## **14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM1\_1\_2002) - CLOSURE OF PEDESTRIAN ACCESS WAY BETWEEN LOTS 179 AND 180 GLEN IRIS DRIVE, JANDAKOT (KJS) (451120)**

**RECOMMENDATION**

That Council request that the Department of Land Administration close the pedestrian access way between Lots 179 and 180 Glen Iris Drive, Jandakot.

**COUNCIL DECISION**

**Background**

The owner of Lot 179, a vacant lot, has requested the closure of the pedestrian access way prior to him submitting any building plans.

The access way is bounded by masonry block walls except for the entrance. The access way has no purpose as it leads only to the railway reserve at the rear of the lots.

**Submission**

Requests have been received by both owners of Lots 180 and 179 to close the access way and purchase the land from the State.

**Report**

All of the service authorities and the Department for Planning and Infrastructure have been sent requests seeking comments to the closure. There have been no objections received.

A planning assessment has been undertaken and given the absence of any current or potential pedestrian or cycleway linkages, the assessment recommends that the access way be closed. Other residents, not being the adjoining owners, have contacted Council officers requesting that the access way be closed. There is a belief that criminal elements were using the access way as an escape route after committing break-ins within the vicinity.

**Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

### **Budget/Financial Implications**

N/A

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

Nil.

## **14.2 (OCM1\_1\_2002) - REVOCATION OF PLANNING APPROVAL - FUNCTION CENTRE - LOT 9 (NO. 220) WATTLEUP ROAD, WATTLEUP - OWNER/APPLICANT: V LOMBARDO (4412312) (MR) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) defer revoking the planning approval granted by the Council at its Ordinary Meeting on 18 July 2000, for a Function Centre - Lot 9 (No 220) Wattleup Road Wattleup, subject to (2) (3) and (4) below;
- (2) re-affirm to Mr Vince Lombardo ("owner") and Mr Robert Buckby ("occupier") that private parties fall within the ambit of the Function Centre approval where compliance of the relevant conditions is mandatory;
- (3) place the owner and occupier on probation for a 4-month performance based period where full compliance with conditions of approval must be achieved. The occupier must give prior notification of function dates, attendee numbers, start and finish times to allow the City to undertake inspections of the function centre operating to ascertain compliance with the planning approval; and
- (4) during the 4-month probationary period, if the function centre is found to be in breach of any conditions of planning approval at any time, authorise the Director of Planning and Development to immediately proceed to revoke the function centre approval under authority of the Council.

**COUNCIL DECISION****Background**

Council, at its Ordinary Meeting held on 18 December 2001, resolved as follows:-

- “(1) revoke the planning approval granted by the Council at its Ordinary Meeting on 18 July 2000 for a Function Centre - Lot 9 (No 220) Wattleup Road Wattleup, pursuant to Clause 6.3.5 of the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2 subject to (2) and (3) below;*
- (2) notify the owner of the Council’s decision and inform the owner of the opportunity to give reasons, within 14 days of the date of the Council decision, explaining why the approval for the function centre should not be revoked;*
- (3) should the owner not respond within the 14 day period as provided for in recommendation (2), the Director of Planning and Development is to proceed with the revocation in accordance with the Council decision however, should a written response be received from the owner in accordance with recommendation (2) above within the period specified, then the matter is to be referred to the Council for its consideration; and*
- (4) advise the WAPC and Council’s solicitor of the Council’s decision in the event that the Director of Planning and Development revokes the planning consent for the function centre as provided for in recommendation (3)”.*

Further background to this matter can be sourced from Item 14.12 OCM 18/12/01.

On 19 December 2001, a notice was served on the owner using the exact words from the Council’s decision at its Ordinary Meeting on 18 December 2001. This notice prompted a telephone call from Mr Vince Lombardo (“owner”) the following day, where the Principal Planner explained that the proposed revocation was attributed to past breaches of conditions of planning consent.

On 21 December 2001, Mr Robert Buckby (“operator”) contacted the City where the same explanation was given for the proposed revocation of approval. Although the notice did not explain the reasons why the Council was pursuing the revocation of approval, this was clarified verbally and both the owner and operator clearly understood the reasons for the notice being served.



## Submission

Mrs Lombardo contacted her husband by telephone upon receiving notification from the City by post of the Council's decision on 18 December 2001 and this prompted an interim reply by e-mail on 20 December 2001 from Vince Lombardo, in which he advised that he was working off-shore, near Karratha and would not be back in Perth until 4 January 2002. Accordingly, he requested that he be given until that time to investigate Council's concerns.

Mr Vince Lombardo later confirmed on 3 January 2002, that the lease on the premises expires in another 3 months, which gives him the ability to let the lease 'run out' if desired. Mr Lombardo indicated there were business maritime functions that could be operated during the day related to various industries established in Henderson. Mr Lombardo asserted that he is not associated nor did he have any knowledge of non-compliant functions being carried out at the premises.

A facsimile message was received from Clayton Utz lawyers on behalf of Mr Buckby ("operator"), advising amongst other things, that despite the fact that the Scheme includes a clause allowing revocation of an approval, this does not itself mean that the revocation is lawful.

An extract from the correspondence states [viz]:

*"In our view the power of revocation purported to be provided by the relevant provision of the Scheme is beyond the power of the City as a matter of law. Further an in any event, the matter in which that process has been commenced by the City denies our client procedural fairness. Any reliance by Council on a purported power of revocation of a planning approval otherwise validly issued will be the subject of challenge."*

Clayton Utz has requested a clear statement to their client providing a reason for the purported revocation and a reasonable period of time within which a submission addressing the legal and factual issues can be prepared.

## Report

The background to serving of the notice is adequately explained in the background to this report and addresses Clayton Utz response in part.

Council's solicitors have also confirmed that there are no provisions in the Town Planning & Development Act that set out the ability or process for the revocation of planning approvals. There are various Town Planning Schemes in the State including the City of Cockburn

Town Planning Scheme No 2., that allow for planning approvals to be revoked where a development is in breach of conditions of approval.

Section 8(2)(b) of the Act allows the Council to include special provisions in a Town Planning Scheme to assist in enforcing observance of the Scheme. The City's Scheme has the full force and effect of the Act upon gazettal.

Council's solicitors verbally confirmed that the owner has two options if the function centre approval is revoked.

- Option One – Challenge the legality of the decision in the Supreme Court, which is the costly option.
- Option Two – Appeal the decision, which involves the exercise of discretion of the Council to the Town Planning Appeal Tribunal based on the reasonableness of the revocation.

For a revocation of approval to be valid on planning grounds, the Council must first satisfy itself that there is recent and on-going evidence to substantiate a recent breach of conditions during the period of the function centre being operated by the current operator (Mr Buckby).

It is recommended that the Council defer making a final decision based on the response from Mr Lombardo received on 7 and 8 January 2002, copies of which have been provided to Elected Members.

This approach seems to be fair and reasonable. The position also enables the operator and owner to put their management practices in order to satisfy conditions of approval, with the understanding that non compliance will result in the revocation of approval.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

### **Budget/Financial Implications**

The cost of preparing a second prosecution for breach of planning approval would be over \$7,000.

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

Planning approvals for the affected land are now controlled under the provisions of the Hope Valley-Wattleup Redevelopment Act, which are administered by the Western Australian Planning Commission.

#### 14.3 (OCM1\_1\_2002) - PROPOSED SUBDIVISION - PT LOT 146 JANDAKOT ROAD, BANJUP (116158) (MR)(ATTACH)

##### RECOMMENDATION

That Council:

- (1) advise the Western Australian Planning Commission that Council does not support the subdivision of Pt Lot 146 Jandakot Road, Banjup for the following reasons:-
  1. The land has not been rehabilitated in accordance with the approved excavation management plan.
  2. Potential environmental impacts on the land.
  3. The creation of an undesirable precedent.
  4. Set out in the Council's letter to the Western Australian Planning Commission dated 17 July 2001 and 3 December 2001.
- (2) instigate further legal action against the owner of Lot 146 Jandakot Road, Banjup for non-compliance with planning conditions in respect to the use of the land for an extractive industry.

##### COUNCIL DECISION

##### Background

ZONING:	MRS:	Rural – Water Protection
	DZS2:	Resource
LAND USE:	Disused Sand Excavation, Vacant	
APPLICANT:	Paterson Tudor Owen & Parker	
OWNER:	Barelle Pty Ltd	
LOT SIZE:	52.6ha	

The current owner, Barelle Pty Ltd, has operated an extractive industry on its Jandakot Road site since 1977.

Council, at its Ordinary Meeting held on 16 September 1997, resolved to re-approve the extraction of sand from Pt Lot 146 Jandakot Road. The excavation involved the removal of sand over a surface area of eight hectares.

Amazon Soils & Landscaping Supplies previously operated a soil blending operation from the site despite that no prior planning consent had been obtained from the Council. The Water and Rivers Commission facilitated the relocation of the operation.

Council, at its Ordinary Meeting held on 16 February 1999, decided to initiate legal action against the owner/occupier Barelle Pty Ltd for a breach of the City of Cockburn Town Planning Scheme No 2 and the Local Law. This was on the basis that compliance with various conditions of excavation approval including rehabilitation had not been satisfied within 28 days.

The prosecution was successful and all charges were found in favour of the City against Barelle Pty Ltd. The total of fines and costs awarded were \$18,564.00.

The Western Australian Planning Commission ("Commission") advised the City of the application to subdivide the subject land in March 2001. The City Officers responded to the Commission in April and July 2001 raising various objections to the proposal regarding the need for more supportive information on land capability and site suitability and rehabilitation. The applicant responded by forwarding further reports to the Commission in October 2001. The additional information addressed most of the City's concerns, except for how the land could be rehabilitated prior to subdivision approval in accordance with Council Policy.

### **Submission**

The proposed subdivision includes 22 lots with a minimum lots size of 2ha. A public open space reserve is proposed for the area that is a Regional Reserve – Parks & Recreation under the Metropolitan Region Scheme. The reserve includes a section of wetland classified as a Conservation Category Wetland by the Water & Rivers Commission.

The applicant has submitted the following information to the Western Australian Planning Commission in support of this proposal as summarised below:-

- Land Capability Assessment – examines the soil characteristics including hydrology, vegetation, flora, fauna, wetlands, topography against the capacity of the land to sustain 2.0 hectare size lots. ATA

confirmed that the land capability will accommodate the land use (2.0ha lot sizes minimum) subject to select locations of building envelopes and use of alternative treatment units (“ATU’s”) for effluent disposal.

- Geotechnical Report for the proposed subdivision to determines the suitability of road construction, and building construction (building envelope locations). The results indicated that 3 building envelopes would need to be relocated.
- Subdivider commitments – rehabilitation of site to Council’s satisfaction, and notification of purchasers regarding kennel etc.

## **Report**

This proposed subdivision is referred to the Council for its recommendation to the Commission as the applicant has requested a variation to Council’s – Subdivision Policy APD27 for Sand Extraction Sites and Other Sites in Jandakot & Banjup north of Armadale Road. This is in respect to obtaining subdivision approval prior to the rehabilitation of the disused quarry.

The applicants are negotiating the purchase of Pt Lot 146 from the owner Barelle Pty Ltd, who has so far been unco-operative in site remediation.

The applicant’s planning consultant initiated negotiations with the City Officers following the re-submission of additional information to the WAPC. The additional information substantially addressed concerns raised by the City with the initial subdivision report with the exception of compliance with Council Policy APD27. The Council in anticipation that quarry resources would eventually be depleted and then prompt landowners to seek approval to subdivide endorsed the Policy for this reason. The Policy identifies the subject land within Precinct 2 – Lot 130 Fraser Rd and Pt Lot 146 Jandakot Rd. The proposed subdivision generally complies with a Concept Plan prepared to guide subdivision and development.

The Policy also specifies that Council will not support subdivision until the rehabilitation criteria of excavation/rehabilitation plans are satisfied. There is no evidence to suggest that the current owner has rehabilitated the site in accordance with conditions of development approval for the quarry. Despite being successfully prosecuted in the past by the City of Cockburn and submission of a bond, the site remains an “eyesore”. The owners Quarry Management Plan dated January 1996 was also found to be deficient of information and low on species density, which raises doubts as to the potential for successful rehabilitation of the site.

The City has two options in providing further recommendations to the Commission:-

1. Support the subdivision subject to comprehensive conditions, which include a revised rehabilitation plan and larger bond. This would involve a variation to Council Policy. The applicant has indicated that his clients accept the special conditions listed above requiring a new rehabilitation plan and works, whereas the current owner has been so far unwilling to carry out such works.
2. Not support the subdivision proposal in accordance with Council's Policy and initiate further legal action against the current owner Barelle Pty Ltd for breach of conditions of development approval which constitutes an offence under section 10 (4)(a) of the Town Planning and Development Act. This will have financial implications associated with legal costs estimated at around \$7,000.

The second option is recommended in this instance given the circumstances described above. This is an opportunity for the City to defer the subdivision approval to process in order to achieve the satisfactory rehabilitation of the site which is an outstanding obligation of the current owner and any future owner.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

#### Planning Your City

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

#### Conserving and Improving your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district.*
- *To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

### **Budget/Financial Implications**

Financial implications if the Council chose to prosecute the current owner for a breach of planning conditions regarding the sand excavation approval could be in the order of \$7,000.

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

Nil

**14.4 (OCM1\_1\_2002) - ROAD CLOSURE PURSUANT TO SECTION 58 OF THE LAND ADMINISTRATION ACT 1997 - ROMA STREET, COOGEE (450648) (KJS)****RECOMMENDATION**

That Council request that the Department of Land Administration:-

- (1) close Roma Street, Coogee, subject to there being no objection to the proposal as a result of the statutory advertising period; and
- (2) include the closed road into Reserve 8710.

**COUNCIL DECISION****Background**

A request to place gates at the intersection of Mayor Road and Roma Street was received from residents in Shoal Court. They are citing problems with after hours use of the street by anti social groups. On discussing this request with the school, it was learnt that the school was having trouble with after hours access to the school. The school saw value in permanently closing the road so that they could better utilise the area.

**Submission**

A letter was received from the Principal, Coogee Primary School, requesting the closure of Roma Street, Coogee.

**Report**

The initial request for a gate at the entrance to Roma Street would have resulted in some cost being borne by the school and ongoing concerns on how and when the gates would be locked and unlocked. The section of road has no use other than access to the school. There is currently pedestrian access off Shoal Court and Mayor Road which provides a pedestrian link.

It is envisaged that this pedestrian link will be maintained after the school takes possession of the road land. If this were not to be the case, then the pedestrian link could be maintained via Council's Reserve 44789.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

### **Budget/Financial Implications**

N/A

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

Nil.

## **14.5 (OCM1\_1\_2002) - METROPOLITAN REGION SCHEME AMENDMENT 1040/33 - TAPPER ROAD EXTENSION, ATWELL SOUTH - SUBMISSION AND INITIATION OF DISTRICT ZONING SCHEME NO. 2 AMENDMENT NO. 233 (9104033; 92233; 109802; 115032) (SOS) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) lodge a submission on the proposed Metropolitan Region Scheme Amendment 1040/33, expressing support for the proposal;

- (2) adopt the following amendment:-

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

AMENDMENT NO. 233

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



1. rezoning portion of JAA Loc 209 Lot 61 Bartram Road from “Parks and Recreation” to “Development” and portion of JAA Loc 206 Lot 7 Beenyup Road from “Rural” to “Resource”;
  2. amending the boundary of the Atwell South Development Area (DA 10); and
  3. amending the Scheme Maps accordingly;
- (3) upon preparation of the amending documents, the documents be signed and the Western Australian Planning Commission be advised of Council’s decision;
  - (4) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7 (A)(1) of the Town Planning and Development Act;
  - (5) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, forward copies of the signed documents to the Western Australian Planning Commission requesting consent to advertise be granted;
  - (6) notwithstanding (5) above, the Director of Planning and Development may refer the Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act; and
  - (7) advise Peet & Co Limited accordingly.

## COUNCIL DECISION

### Background

This report concerns the proposed amendment to the Metropolitan Region Scheme (MRS) for the alignment of the future Tapper Road extension in Atwell.

Tapper Road presently terminates at Bartram Road but is planned to be extended southwards to intersect with Beenyup Road as previously determined by the South Jandakot/Mandogalup District Planning Study (WAPC October 1993) which has formed the basis of detailed Planning

and MRS zonings in the Atwell/Success localities including MRS Amendment No 938/33 (February 1994) which rezoned land south of Bartram Road to Urban and Urban Deferred.

Tapper Road will perform an important role as a local connector between existing development in Atwell and new development soon to occur to the south.

In December 1999 the Planning Commission approved a super lot subdivision of then lot 209 (WAPC Ref 109802) to create 2 lots with one being that land zoned Urban and portion of the Parks and Recreation land that was required for the extension of Tapper Road (now Lot 61) and the second being the balance of the Parks and Recreation reserve. In approving the subdivision of Lot 209 the Planning Commission advised that it would take the necessary action to include the land required for the Tapper Road extension currently reserved for Parks and Recreation in the MRS in a future MRS omnibus amendment (footnote 3).

Council subsequently considered planning applications for Lot 61, particularly a structure plan and subdivision proposal in November 2000, which were conditionally supported.

The Western Australian Planning Commission has yet to approve these proposals, in part, due to that fact that the proposed Tapper Road extension lies within land currently reserved in the MRS for Parks and Recreation/Water Catchment.

The Commission proposes to amend the MRS by transferring the Tapper Road alignment land from Parks and Recreation and Water Catchment reservations to Urban (proposal reference 1040/33) to facilitate the construction of Tapper Road within the alignment proposed by the structure plan and subdivision proposal.

### **Submission**

MRS Amendment No 1040/33 is being advertised for public comment from 8<sup>th</sup> October 2001 till 1<sup>st</sup> February 2002. The proposal has been advertised in the "Western Australian", local papers and a sign was erected on Beenyp Road in accordance with Position Statement PD 2.

Extracts from MRS Amendment 1040/33 are included in the Agenda attachments.

### **Report**

Planning of the Atwell area has been based on the provision of Tapper Road along the eastern edge of the residential area to act as a major North South collector with a series of loop roads (Brenchley Drive and

Lydon Boulevard) providing access within the residential cells. Whilst the loop roads were interconnected, it was intended that all major North South traffic including district traffic would be accommodated on Tapper Road.

When the superlot subdivision of Lot 209 to the South of Bartram Road was processed, it was identified that the limit of the Urban zone in the MRS had been positioned down the western boundary of the future extension of Tapper Road rather than the eastern boundary and accordingly the land required for Tapper Road was reserved for Parks and Recreation rather than urban. Following extensive discussions with Waters and Rivers Commission, Department of Environmental Protection and Council, the Planning Commission resolved to approve the superlot subdivision to include the land required for Tapper Road in Lot 61 which was to be subdivided for residential purposes and proceeded to purchase the balance or eastern portion of Lot 209 which was reserved for Parks and Recreation for its inclusion in the Shirley Balla Swamp reserve of the Jandakot Botanical Park.

Whilst it is technically possible to construct a road on land reserved for Parks and Recreation, the Planning Commission agreed to approve the superlot application and advised the then owner that the issue of zoning would be addressed through a future amendment to the MRS.

The MRS Amendment document, which includes a copy of advice from the Environmental Protection Authority on the proposal, is considered to adequately detail the considerations relevant to the proposal. It also establishes the measures that should apply to the construction of Tapper Road to manage environmental impacts.

The MRS Amendment document acknowledges the environmental factors relevant to the planned alignment of Tapper Road, particularly the future Jandakot Botanical Park, Bush Forever considerations and groundwater catchment areas. However it concludes that the alignment is the most appropriate in terms of engineering considerations, optimising sound estate design for the development of Lot 61 and minimising edge impacts upon the Botanical Park.

These conclusions are consistent with those made by Council officers when recommending Council support for the structure plan and subdivision proposals for Lot 61 in November 2000 (Item 14.7).

Consistent with Council's previous support for the proposed Structure Plan and subdivision of Lot 61 which included the proposed extension of Tapper Road, it is recommended that Council make a submission to the Commission expressing its support for MRS Amendment 1040/33.

Should Council resolve to support the MRS Amendment proposal, it would also be appropriate to initiate an Amendment to District Zoning

Scheme No.2 to bring the Scheme into conformity with the MRS as required by the MRS Regulations.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
  
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  
3. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
  
5. Maintaining Your Community Facilities
  - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*

The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD3	Native Fauna Protection Policy
SPD5	Wetland Conservation Policy

### **Budget/Financial Implications**

N/A

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

Nil

**14.6 (OCM1\_1\_2002) - PROPOSED MAP AMENDMENT TO DISTRICT ZONING SCHEME NO. 2 - AMENDMENT NO.234 - REMOVAL OF R20 CODE (92234) (MR) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the following amendment:-

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

AMENDMENT NO. 234

Resolved that Council, in pursuance of section 7 of the Town Planning and Development Act 1928 (as amended), to amend the above Town Planning Scheme as follows:-

**Amending the Scheme Maps by:-**

1. deleting the Residential Zone and R20 Code from Development Area 4 (Cells 9 and 10 only) bounded by Yangebup Rd, Spearwood Avenue extension, the standard gauge railway line and the Rural Zone and substitute with a Development Zone and Development Contribution Area 5 excluding Pt Lot 2 McLaren Avenue.
2. inserting Development Contribution Area 4 to the area generally depicted as Development Area 4 excluding lots west of View Street and Lots 1, 2, 3 & 4 East Churchill Avenue.

**Amending the Scheme Text by:-**

1. inserting Development Contribution Areas 4 and 5 into Schedule 12 as follows:-

Ref No	<b>DCA4</b>
Area	<b>Yangebup West</b>
Provisions	All landowners within DCA 4 and DCA5 with the exception of Lots 500 and 600 Shallcross Street and Lots 500 and 504 Storey Place within DCA 4 shall make a proportional contribution of 40.88% of the total cost of constructing Beelias Drive between Stock Road and Spearwood Avenue.

The proportional contribution is to be determined in accordance with the provisions of **Part 12 –**

**Development Contribution Areas** and contained on the Development Contribution Plan.

The contribution shall include the following:-

- Land requirements for the other Regional Road Reservation between Watson Road and Spearwood Avenue under the MRS;
- Land requirements for an average 45 metre wide road reserve between Watson Road and Stock Road;
- Additional land which is required to accommodate channelisation at intersections and drainage;
- Full earthworks;
- Construction of a four lane median divided kerbed road;
- Dual use path (both sides);
- Pedestrian crossings (where appropriate at the discretion of the local government);
- Lighting;
- Landscaping;
- Traffic signals and roundabouts at major intersections;
- Drainage;
- Costs to administer cost sharing arrangements including preliminary engineering design and costings, valuations, annual reviews and audits and administration costs;
- Servicing infrastructure relocation where necessary;
- Costs for the repayment of any loans raised by the local authority for the purchase of any land for Beeliar Drive or for any of the abovementioned works.

Participants and Contributions:- In accordance with the Cost Contribution Schedule adopted by the local government for DCA 4.

Ref No	<b>DCA5</b>
Area	<b>Yangebup East</b>
Provisions	All landowners within DCA5 and DCA4 with the exception of Lots 500 and 600 Shallcross Street and Lots 500 and 504 Storey Place within DCA4 shall make a proportional contribution of 40.88% of the total cost of constructing Beeliar Drive between Stock Road and Spearwood Avenue and all landowners within DCA5 south of Beeliar Drive

shall make a proportional contribution of 50% of the cost of Spearwood Avenue between Beeliar Drive and Fancote Avenue.

The proportional contribution is to be determined in accordance with the provisions of **Part 12 – Development Contribution Areas** and contained on the cost contribution schedule.

Contributions shall be made towards the following items for Beeliar Drive:

- Land requirements for the Other Regional Road Reservation between Watson Road and Stock Road;
- Land requirements for an average 45 metre wide road reserve between Watson Road and Stock Road;
- Additional land which is required to accommodate channelisation at intersections and drainage;
- Full earthworks;
- Construction of a four lane median divided kerbed road;
- Dual use path (both sides);
- Pedestrian crossings (where appropriate at the discretion of the local government);
- Lighting;
- Landscaping;
- Traffic signals and roundabouts at major intersections;
- Drainage;
- Costs to administer cost sharing arrangements including preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;
- Servicing infrastructure relocation where necessary;
- Costs for the repayment of any loans raised by the local government for the purchase of any land for the road reserve or any of the abovementioned works.
- Contributions shall be made towards the following items for Spearwood Avenue:
  - Land requirements for a 25 metre wide road reserve;
  - Full earthworks;
  - Construction of a two lane kerbed road with channelisation at intersections;

- Dual use path (one side only);
- Traffic Management devices;
- Drainage;
- Servicing infrastructure relocation where necessary;
- Costs to administer cost sharing arrangements including preliminary engineering design and costings, valuations, annual reviews and audits and administration costs.

Participants and Contributions: In accordance with the Cost Contribution Schedule adopted by the local government for DCA 5.

Dated this Tuesday 15<sup>th</sup> day of January 2002

Chief Executive Officer

- (2) sign the amending documents, and advise the WAPC of Council's decision;
- (3) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7A(1) of the Town Planning and Development Act;
- (4) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not with the Amendment; and
- (6) following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed with the Amendment.



**COUNCIL DECISION****Background**

The Residential R20 Zone has become redundant now that the Council has adopted a Structure Plan pursuant to District Zoning Scheme No 2 (Cells 9 and 10) for the eastern portion of Development Area 4 described in the above recommendation. The western portion of Development Area 4 Structure Plan has only been adopted as a draft guide and does not include R-Codes and for this reason was not included. The Structure Plan must be reinforced as the principal guide to subdivision and development of the area.

The R20 Code shown on the Scheme Maps is at odds with certain R40 Coded sites depicted on the Structure Plan. This has led to unnecessary confusion as to which R-Code to apply in this situation the R20 Code or the R40 Code. Part Eight of the Scheme Provisions applying to Operation of Structure Plans is also at odds with Ninth Schedule – Development Area 4 Yangebup provisions.

**Submission**

N/A

**Report**

A Scheme Amendment is required to modify the Scheme Maps to delete the Residential Zone and R20 Code and replace with a Residential Development Zone. This will resolve the inconsistency in certain provisions of the Scheme Text and reaffirm that an adopted Structure Plan should prevail as the principal guide to subdivision and development.

The Development Contribution Areas 4 & 5 should also be inserted into the Scheme Maps and Scheme Text. These apply to specific areas described in the report recommendation, where contributions are required from developers to coordinate the construction of regional roads such as sections of Beeliar Drive (DCA4 & DCA5) and Spearwood Avenue (DCA5 southern portion) as part of proposed Town Planning Scheme No 3. Part 12 of the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2 sets out the procedures for administering Development Contributions and detailed requirements for each area are set out in the Tenth Schedule. Refer to Agenda Attachments for a plan showing the Development Contribution Areas.

This Amendment is also consistent with the Council's Policy "APD23 Town Planning Scheme No 2 Amendments following final adoption of proposed Town Planning Scheme No 3". The Council will only support those Amendments to Town Planning Scheme No 2 where the amendment is consistent with the proposals contained in Town Planning Scheme No 3.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

### **Budget/Financial Implications**

The Scheme Amendment documents are being prepared in-house where costs incurred relate to the administration, advertising of the documents and reporting to the Council.

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

Nil

## **14.7 (OCM1\_1\_2002) - METROPOLITAN REGION SCHEME AMENDMENT NO. 1038/33 - THOMSONS LAKE REGIONAL CENTRE - SUBMISSION AND INITIATION OF AMENDMENT NO. 235 TO DISTRICT ZONING SCHEME NO. 2 (9103833; 9629; 92235) (AJB) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) lodge a submission on Metropolitan Region Scheme Amendment No 1038/33 – Thomsons Lake Regional Centre:-
  1. expressing support for the proposal however, the Council would have preferred that the area be zoned "Central City Area" under the MRS to truly reflect and reinforce the future of the Thomsons Lake Regional Centre.
  2. recommending that the eastern boundary of the urban zone be rationalised to include that land which is to be developed as the railway station car park and set down area which is the subject of MRS Amendment 1032/33.

(2) adopt the following amendment:-

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

AMENDMENT NO. 235

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

1. rezoning portion of Lots 510 and 40 Kentucky Court, portion of JAA pt 227, JAA pt 228, JAA pt 231, Lot 10 and Pt Lot 12 North Lake Road, Lot 1001 Poletti Road, Pt Lot 1 North Lake Road, portion of Crown Reserve 27950 and land included in a Right of Way from “Parks and Recreation” to “Development”, portion of the reserve of North Lake Road and Kentucky Court from “Other Regional Road” to “Development”, portion of the reserve for Kentucky Court from “Local Reserve (Local Road)” to “Development” and portion of Lot 510 Kentucky Court from “Railway Reservation” to “Development”.
2. including the land bounded by the Kwinana Freeway, Beelihar Drive, Poletti Road, North Lake Road, Tea Tree Close and Kentucky Court in a new Development Area and include within that area the notation “DA 13”;
3. amending the Scheme Maps accordingly;
4. amending the Ninth Schedule – “Development Areas” of the Scheme Text to include the following;

REF NO.	AREA	PROVISIONS
	COCKBURN CENTRAL REGIONAL CENTRE	<ol style="list-style-type: none"> <li>1. An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</li> <li>2. The local government may adopt Design Guidelines for any development precincts as defined on the structure plan. All development in such precincts is to be in accordance with the adopted guidelines in addition to any other requirements of the Scheme and where there is any incon-</li> </ol>

		<p>sistency between the design guidelines and the Scheme, the Scheme shall prevail.</p>
<p>(3) upon preparation of the amending documents, the documents be signed and the Western Australian Planning Commission be advised of Council's decision;</p> <p>(4) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7 (A)(1) of the Town Planning and Development Act;</p> <p>(5) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, forward copies of the signed documents to the Western Australian Planning Commission requesting consent to advertise be granted; and</p> <p>(6) notwithstanding (5) above, the Director of Planning and Development may refer the Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act.</p>		

**COUNCIL DECISION**

**Background**

Council has promoted and supported the development of Cockburn Central (Thomsons Lake) as a Regional Centre and is a Member of the Thomsons Lake Regional Centre Steering Committee which is co-ordinating the project.

Proposals for the Regional Centre follow on from the Thomsons Lake Regional Centre Master Plan Report prepared for the Steering Committee in October 1997 by Hames Sharley and submissions to Cabinet in June 1998 and September 2000.

A consulting team including BSD Consultants was appointed by the Project Manager Landcorp on behalf of the Thomsons Lake Regional

Centre Steering Committee to undertake extensive public consultation and preparation of a Structure Plan for the Thomsons Lake Regional Centre.

The brief required that public consultation and the Structure Plan process be run in parallel with the advertising of MRS Amendment 1038/33 to provide the community with the opportunity to be involved with the formulation of the vision and proposals for the Regional Centre and provide a high level of information to enable people to come to an informed position on the proposal.

MRS Amendment 1038/33 "Thomsons Lake Regional Centre" is being advertised for public comment until 1 February 2002 as "Urban". Given the future status of the Centre, this is totally inappropriate and should have been designated "Central City Area" instead.

Phase 1 of the community and stakeholders consultation was undertaken in September/October 2001.

BSD Consultants have lodged the Draft Structure Plan and report for the Cockburn Central Regional Centre with Council for processing in accordance with the procedures in Part 8 of Town Planning Scheme No. 2 which relates to structure plans. This was received by Council at its meeting held on 20<sup>th</sup> November 2001 and it was agreed to advertise the Draft Structure Plan for public comment with the submission period coinciding with MRS Amendment No 1038/33.

### **Submission**

MRS Amendment 1038/33 "Thomsons Lake Regional Centre" and the "Draft Regional Centre Structure Plan" are being advertised for public comment until 1 February 2002. The proposals have been advertised in the "Western Australian" and local papers by the Planning Commission and Council and signs have been erected on site in accordance with Position Statement PD 2.

Extracts from MRS Amendment 1038/33 are included in the Agenda attachments.

### **Report**

Amendment No 1038/33 proposes the following changes to the Metropolitan Region Scheme to facilitate the development of the Cockburn Central (Thomsons Lake) Regional Centre;

- Include the land required for the extension of North Lake Road across the Kwinana Freeway through to the intersection of Armadale Road and Tapper Road as "Other Regional Roads" Reservation to allow for the construction of a 4 lane road in accordance with the overall master plan.

- Include land generally bounded by the extension of North Lake Road, Kentucky Court and the Kwinana Freeway in the “Urban Deferred” zone consistent with the zoning of the adjoining land.
- Include in the “Urban Zone” all the land bounded by Beeliar Drive, Poletti Road, North Lake Road and its extension and the Railway land adjacent to the Freeway.

The MRS Amendment document provides planning and environmental information relevant to the proposal and includes a copy of advice from the Environmental Protection Authority. The document provides information previously conveyed to Council in detail as part of the Draft Structure Plan report.

It is noted that the area that is to be reserved for Railway purposes under MRS Amendment No 1032/33 (which is being advertised concurrently) is not in accordance with Transports site plan for the station which is reflected in the Regional Centre Draft Structure Plan. It is considered that Council’s submission should draw attention to the fact that the area being reserved for Railway purposes under MRS Amendment No 1032/33 and reflected in Amendment No 1038/33 is based on an out dated stand alone station concept plan and therefore in excess of the actual need and is unnecessarily restrictive when the desired outcome is for an integrated town centre/public transport interchange as reflected in the Draft Structure Plan.

Council's submission should promote the expansion of the Urban area in Amendment No 1038/33 (Thomsons Lake Regional Centre) and contraction of the land to be reserved for Railway purposes under Amendment No 1032/33 (South West Metropolitan Transit Route) as shown on Plan 1 in the Agenda attachments. The alternative boundary between the Urban zone and Railway Reserve follows the proposed north south busway on the Thomsons Lake Transit Station Site Plan with the carparks, set down area, town square and associated development being within the Urban zone.

The suggested approach has the following benefits;

- Allows for better integration of the station and Town Centre.
- Allows greater flexibility for refinements and changes to the Town Centre Structure Plan and station plans without the need for expensive and time consuming amendments to the MRS and Council scheme in the future.
- Provides greater certainty to Council and the community that the station will be properly integrated with the Town Centre and that good site planning and sound planning principles will dictate the outcomes rather than arbitrary zoning lines.

It is recommended that Council make a submission to the Planning Commission expressing its support for MRS Amendment No 1038/33 and noting that the eastern boundary of the urban area should be extended and include the land up to the busway for the reasons outlined above.

Should Council resolve to support the MRS Amendment proposal, it would also be appropriate to initiate an Amendment to District Zoning Scheme No. 2 to bring the Scheme into conformity with the MRS as required by the MRS Regulations.

The proposal is to zone all of the Town Centre area "Development" in TPS No 2 and also designated as a "Development Area" with subdivision and development being in accordance with an adopted Structure Plan as provided for in the proposed provisions to be included in the Ninth Schedule. All submissions that are lodged in response to the current advertising of the Draft Structure Plan will be considered as part of the Structure Planning process and reflected in the final Structure Plan as determined by Council and the Department for Planning and Infrastructure.

In the event that MRS Amendment No 1038/33 (Thomsons Lake Regional Centre) does not receive final approval, Amendment No 235 and the Structure Plan processes will be automatically terminated.

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

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
  - *"To conserve the character and historic value of the human and built environment."*

- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
- 4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
  - *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*
- 5. Maintaining Your Community Facilities
  - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*
  - *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*
  - *"To construct and maintain community buildings which are owned or managed by the Council."*

The Planning Policies which apply to this item are:-

- SPD1 Bushland Conservation Policy
- SPD2 Community Facilities Infrastructure - 10 Year Forward Plan
- SPD4 'Liveable Neighbourhoods'
- SPD5 Wetland Conservation Policy
- APD31 Detailed Area Plans

### **Budget/Financial Implications**

Development of the Regional Centre will involve the provision of road and sporting infrastructure - yet to be determined.

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

Nil

## **14.8 (OCM1\_1\_2002) - FENCE - 12B HYAM STREET, HAMILTON HILL (2203934) (VG) (ATTACH)**

### **RECOMMENDATION**

That Council:-



- (1) determine that the corrugated steel fence adjoining vacant land at 12B Hyam Street, is so dilapidated in appearance as to be out of conformity with the general standard of appearance with other fences in the locality; and
- (2) serve the owner of that fence with a Notice requiring the owner to immediately cause the fence to be brought into conformity with the general standard of appearance of other fences in the vicinity.

## COUNCIL DECISION

### Background

A written complaint has been received from a nearby resident.

The owners of the fence in question have been advised in writing on 22 November 2001 to attend to the matter, but as yet no action has been taken by the owner.

### Submission

N/A.

### Report

The City may cause a written Notice to be served on the owner if it is of the opinion that the fence is not in conformity with the general standard of appearance in the locality.

It could be argued that the fence in question is not so dilapidated as to be out of conformity with the general appearance of fencing in the locality. A photograph of the fence is included in the attachments to the Agenda.

### Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

2. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

**Budget/Financial Implications**

Legal opinion is normally sought and costs would apply.

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

Nil.

**14.9 (OCM1\_1\_2002) - NON COMPLIANCE WITH CONDITIONS OF APPROVAL - VULCAN ENGINEERING, LOT 169 (NO. 95) QUILL WAY, HENDERSON - OWNER: KATOP PTY LTD (T/AS VULCAN ENGINEERING) - APPLICANT: GORDON VUKUSICH (3316799) (DB) (ATTACH)**

**RECOMMENDATION**  
That Council:

- (1) refuse the request from Mr. Gordon Vukusich, on behalf of Katop Pty Ltd, for a 12 month extension to satisfy outstanding conditions of Planning consent for the factory at Lot 169 Quill Way Henderson, granted under delegated authority of the Council on 18 April 1997;
- (2) serve a final 28 days notice on the owner, Katop Pty Ltd, requesting compliance with conditions 4, 7, 13, 19 and Special Conditions 1 & 2 of the 1997 Planning consent;
- (3) authorise the Director of Planning & Development to initiate legal proceedings for a breach of Section 10.4 (a)(l) of the Town Planning & Development Act, in the event that the outstanding conditions are not satisfied, or reasonable progress towards completion of the above made within the period stipulated.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Industrial
	DZS:	General Industry
LAND USE:	Workshop & Heavy fabrication	
LOT SIZE:	0.8743 ha	
AREA:		
USE CLASS:	Industry - General	

Planning consent was issued on 18 April 1997, for a 2,734 square metre heavy fabrication workshop. A subsequent approval for an additional fabrication shed of 2,308 square metres was issued on 28 August 2000.

Site inspections undertaken on 5 July 2000, 30 March 2001 and 22 November 2001, revealed that the following conditions remain outstanding from the initial 1997 Planning Approval:

*“Condition 4 - The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council*

*Condition 7 - The landscaping, in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council*

*Condition 13 – The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications.*

*Condition 19 – Landscaping to be undertaken to the satisfaction of the Council in the street verge adjacent to the lot(s) and must be established prior to the occupation of the building; and maintained to the Council’s satisfaction.*

*Special Condition 1 – The planting and maintenance of a minimum of thirty-two (32) trees.*

*Special Condition 2 – Provision and maintenance of a minimum of thirty two (32) paved car parking spaces measuring 5.5m x 2.5m and clearly marked on the ground, with 6m wide paved accessways and satisfactory manoeuvring areas.”*

Clause 6.3.5 of the Scheme allows the Council to revoke its planning approval if planning conditions are not fulfilled or complied with.

### **Submission**

Mr Gordon Vukusich of Vulcan Engineering has requested an extension of approximately twelve (12) months to satisfy outstanding conditions of approval (Conditions 4, 7, 13, 19 and Special Conditions 1 & 2 respectively).

The owner has stated that a downturn in the heavy fabrication industry has affected his business and that the funds required to complete the outstanding conditions are not available.

## Report

The owner has had over four years since the initial approval (18<sup>th</sup> April 1997) and the last site inspection (22<sup>nd</sup> November 2001) to satisfy the conditions of Planning Consent. The provisions of District Zoning Scheme No.2 require that all conditions of approval be satisfied where the development has been substantially commenced within a period of 2 years.

The applicant has effectively been given an extra two years in excess of when the development was substantially commenced. Since then, no attempt has been made to comply with the above conditions of approval. The site is generally untidy with piles of sand, large rocks and weeds dispersed to the extremities of the lot, and the entire site, with the exception of the existing workshed, is unsealed. The owner has not provided written justification to the Council to support his request, despite being asked to formally by the City.

It remains open for the Council to stipulate a period of compliance that in its opinion seems to be reasonable given the type and extent of works involved. A final extension of 7 days would normally be applicable using Council's Policy, but 28 days seems more appropriate. This should be sufficient time to commission and complete the outstanding works.

In accordance with Council's Development Compliance Policy APD29, prior to undertaking legal proceedings the following principles must be observed:

- 1) *"There is a clear breach of the City of Cockburn Town Planning Scheme – District Zoning Scheme No. 2;*
- 2) *Every reasonable opportunity was given for the non-compliance matter to be resolved following the serving of notices set out in this policy;*
- 3) *A continuation of the breach would result in an adverse impact on the amenity of the area and the likelihood of a complaint being received;*
- 4) *The development conflicts with the principles of orderly and proper planning in a general sense."*

The case in point follows the above principles and the Policy compliance requirements have been followed, from receipt of the compliance matter, the issuance of at least 3 warning letters, legal notice, to legal action which is the last resort.

## Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
2. Conserving and improving Your Environment
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

- APD19 North Coogee, Robb Jetty and Henderson Industrial Area  
- Development Control
- APD29 Development Compliance Process

### **Budget/Financial Implications**

Initiating legal proceedings will require the use of funds from the City's Legal expenses budget.

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

Nil

## **14.10 (OCM1\_1\_2002) - METROPOLITAN REGION SCHEME AMENDMENT NO. 1032/33 - SOUTH WEST METROPOLITAN TRANSIT ROUTE (9103233; 9635) (AJB) (ATTACH)**

### **RECOMMENDATION**

That Council lodge a submission on Metropolitan Region Scheme Amendment No 1032/33 – South West Metropolitan Transit Route:-

1. expressing support for proposals 7 to 15;
2. recommending that the western boundary of the Railway Reserve as shown on proposal 11 be rationalised to exclude that land which is to be developed as the railway station car park and set down area, so that it can be included in the Urban Zone proposed by Amendment No 1038/33 (Thomsons Lake Regional Centre); and
3. recommending that proposal 12 be modified to reflect the requirements of the submitted concept plan for the proposed Russell Road station.

### **COUNCIL DECISION**

## **Submission**

MRS Amendment 1032/33 "South West Metropolitan Transit Route" is being advertised for public comment until 1 February 2002. The proposal has been advertised in the Western Australian and local papers by the Planning Commission and signs have been erected on site in accordance with Position Statement PD 2. Letters of notification were also sent to affected residents in Glen Iris Drive and Turtle Point Cove, Jandakot (Glen Iris Estate).

Extracts from MRS Amendment 1032/33 are included in the Agenda attachments.

## **Report**

In December 1994, the Railway Reservation for the South West Metropolitan Railway between Perth and Mandurah was formalised in the Metropolitan Region Scheme. The proposed alignment at that time, was along the Armadale line to join the Kenwick – Kwinana freight line with the line then running down the side of the Kwinana Freeway. In 1999, the decision was made to locate the railway in the median of the Freeway and subsequently in 2001, it was announced that the railway would connect directly to Perth via the Freeway rather than Kenwick.

The current Railway Reserve in the MRS was based on preliminary engineering designs and did not include land for the stations or associated infrastructure.

MRS Amendment 1032/33 includes changes to the Railway Reserve that reflect the changes in alignment, more detailed engineering investigations and designs for the route and detailed requirements for the proposed stations. It should be noted that whilst the current plans are for a direct service from Mandurah to Perth via the Freeway and from Perth to Spencer Road via the Kenwick link, in the long term the service to Spencer Road could be extended along the Kewdale–Kwinana freight to link to Thomsons Lake. Several of the proposals in the MRS relate to the long term option of connecting the rail between Spencer Road and Thomsons Lake.

The proposals that affect the City of Cockburn are as follows;

### Proposal 7 - Jandakot Airport transit station

The land is being reserved for a future (long term) Park & Ride/Kiss & Ride station. The site is located east of Berrigan Drive with frontage to Hope Road. The land is an old sand quarry owned by Transport.

The land is located adjacent to the Airport and no issues are envisaged. It is considered that Council should support this proposal.

Proposal 8 – widening of the Kewdale- Kwinana railway reserve between Berrigan Drive and the Kwinana Freeway.

It is proposed to slightly widen the existing railway reservation to accommodate the earthworks to construct the railway as proposed by the master plan.

The land required for the widening is currently zoned Urban in the MRS and Public Purposes (Gas Pipeline) in District Zoning Scheme No 2. The land is at the rear of lots within the Glen Iris Estate. No private land is included in the proposal.

One of the owners backing onto the reserve has recently advised that their property is subject to excessive vibration due to the freight trains and this matter is being investigated by Westrail. Council officers are not aware of the likely impact of a passenger service on this line. However noise and vibration would need to be addressed and resolved prior to the project being implemented in the future.

It is considered that Council should support the proposal to ensure that long term public transport options are protected and that these are properly reflected through the MRS Reservation to ensure that all existing and future owners are aware of the proposal (one of the complaints by Glen Iris Residents against the earlier location of the railway down the east side of the Kwinana Freeway was that they weren't made aware of the proposal as the railway was part of the Freeway Reserve rather than being a separate and identifiable Railway Reserve).

Proposal 9 – South Lake Transit Station

The station site is the subject of a planning control area that was proclaimed some time ago for station planning purposes.

The proposed station is located west of Kwinana Freeway between Berrigan Drive and Verna Court. Primary access will be off Berrigan Drive with secondary access off Verna Court. The facilities will provide Kiss & Ride, Park & Ride and walk on/ cycle patronage.

Parking at the proposed South Lake Station has been planned as overflow from Thomsons Lake where capacity has been capped to ensure that the station is integrated with the town centre and is not dominated by car parking. Also forward planning in the area points to an increased longer term demand from major urban. Accordingly it is important that provision be made for a station at South Lake although it may not be in stage one of the system to be constructed by 2006.

It is considered that Council should support the proposal.

Proposal 10 and 13 – proposed removal of existing Railway Reserve on either side of the Kwinana Freeway from Glen Iris to Rowley Road.

Some of the land reserved for railway purposes is no longer required given that the railway has been relocated to the median of the Freeway.

The surplus land is to be zoned the same as the adjoining land ie Urban or Urban Deferred.

It is considered that Council should support the proposal.

Proposal 11 – Thomsons Lake Station

The MRS currently provides an area of land approximately 70m wide down the west side of the Kwinana Freeway from just north of Tea Tree Close to Beeliar Drive for Railway purposes. Amendment No 1032/33 proposes to add a further 90 metres in width to the Railway reservation for the station car park and set down area.

It is noted that the area that is to be reserved for Railway purposes is not in accordance with Transport's site plan for the station which is reflected in the Regional Centre Draft Structure Plan. It is considered that Council's submission should draw attention to the fact that the area being reserved for Railway purposes under MRS Amendment No 1032/33 and also reflected in Amendment No 1038/33 is based on an out dated stand alone station concept plan and therefore in excess of the actual need and is unnecessarily restrictive when the desired outcome is for an integrated town centre/public transport interchange as reflected in the Draft Structure Plan.

Councils submission should promote the expansion of the Urban area in Amendment No 1038/33 (Thomsons Lake Regional Centre) and contraction of the land to be reserved for Railway purposes under Amendment No 1032/33 (South West Metropolitan Transit Route) as shown on Plan 1 in the Agenda attachments. The alternative boundary between the Urban zone and Railway Reserve follows the proposed north south busway on the Thomsons Lake Transit Station Site Plan with the carparks, set down area, town square and associated development being within the Urban zone.

The suggested approach has the following benefits;

- Allows for better integration of the station and Town Centre.
- Allows greater flexibility for refinements and changes to the Town Centre Structure Plan and station plans without the need for



expensive and time consuming amendments to the MRS and Council scheme in the future.

- Provides greater certainty to Council and the community that the station will be properly integrated with the Town Centre and that good site planning and sound planning principles will dictate the outcomes rather than arbitrary zoning lines.

It is recommended that Council make a submission to the Planning Commission expressing its support for the proposal and noting that the western boundary of the Railway Reserve should be reduced and only include the land up to the busway for the reasons outlined above.

Proposal 12 - proposed removal of existing Railway Reserve on the west side of the Kwinana Freeway from Beeliar Drive to Russell Road.

Proposal 12 proposes to return surplus Railway land to the same zone that abuts the land ie Urban. Immediately north of Russell Road the Railway Reservation has been retained to accommodate a future station in that location.

At the time of preparing the Amendment only preliminary design work had been undertaken by Transport on this future station. In December 2001 Council's planning officers convened a joint workshop with representatives from Transport, Department for Planning and Infrastructure, Landcorp and Gold Estates to examine the options for the Russell Road station and to ensure that planning being undertaken by LandCorp and Gold Estates effectively and efficiently integrated with the proposed station. A preferred layout was developed as an outcome of the workshop.

It is considered that Council should support Proposal 12 subject to it being modified to reflect the concept plan shown on Plan 1 in the Agenda Attachments.

Proposal 14 – Proposed public purpose reserve Gaebler Road, Banjup

The 2000 m<sup>2</sup> site is required as a power supply area for the railway system. Alternative sites were investigated at the request of Council officers but this was deemed to be the most appropriate location given that the substation feeds off a power supply located in Gaebler Road not the high voltage lines that parallel the Freeway.

A Planning Control area was declared on this site in advance of the MRS Amendment.

It is considered that Council should support this proposal.

Proposal 15 – Proposed Mandogalup transit station.

A portion of the power transmission corridor on the west side of the Freeway and north of Rowley Road is being set aside for a future station car park. Planning of this station including access will be considered as part of the structure planning process that will be undertaken for this area in the near future by the Strategic Planning section(Southern Suburbs District Planning Study – Stage 2).

It is considered that Council should support this proposal.

**Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

**Budget/Financial Implications**

N/A

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

Nil

**14.11 (OCM1\_1\_2002) - METROPOLITAN REGION SCHEME AMENDMENT NO. 1041/33 - SOUTH WEST DISTRICTS OMNIBUS (NO. 5) (9104133) (AJB) (ATTACH)**

**RECOMMENDATION**

That Council lodge a submission supporting proposals 6 to 10 inclusive in Metropolitan Region Scheme Amendment No 1041/33 – South West Districts Omnibus No 5.

**COUNCIL DECISION****Submission**

MRS Amendment 1041/33 South West Districts Omnibus No 5 is being advertised for public comment until 22 February 2002. The proposals have been advertised in the "Western Australian" and local papers by the Planning Commission and signs have been erected on site in accordance with Position Statement PD 2.

Extracts from MRS Amendment 1041/33 are included in the Agenda attachments.

**Report**

This amendment contains 17 separate proposals in the local government areas of Fremantle, Cockburn, Rockingham and Kwinana.

The following proposals are within the City of Cockburn;

Proposal 6 – transfer Reserve 45113 (Recreation) and land between the Reserve and North Lake Road from Industrial to Parks and Recreation.

The subject land forms an important link between Little Rush Lake Reserve and South Lake Reserve. It is appropriate for the land to be Reserved for Parks and Recreation in the Region Scheme to preserve the link and provide the highest level of protection. Council is responsible for the management of Reserve 45113. The additional areas will be added to reserve and managed by Council's Environmental Services.

It is considered that Council should support the proposal.

Proposal 7 – transfer portion of Lot 4107 Argyle Place and portion of Beeliar Drive Road Reserve from Urban Deferred zone to Parks and Recreation reservation.

The proposal is to reserve the high quality bushland located between the back of Mater Christi Catholic Primary School and Beeliar Drive for Parks and Recreation so that it can be managed as an integral part of the Beeliar Regional Park (Yangebup Lake).

It is considered that Council should support the proposal.

Proposal 8 – Transfer portions of Lots 1 and 30 Verna Court, Jandakot from Primary Regional Roads reservation to Urban and Urban Deferred.

The land was originally set aside as a Service Road to the Freeway to provide access to lots that were land locked when the freeway was extended through the area.

The subject lots have been subsequently amalgamated into a single lot with direct access to Verna Court and the road has not been constructed. Accordingly the reserved land for the proposed Service Road is no longer required.

It is considered that Council should support the proposal.

Proposal 9 – To transfer portions of Lot 1 and 2 Yangebup Road and portion of the Yangebup Road reserve from the Primary Regional Roads reservation to Urban.

The subject land has been identified as surplus to the requirement for the Stock Road/Beeliar Drive interchange.

The proposal has been previously supported by Council as part of the structure planning for the Cell 6 area.

It is considered that Council should support the proposal.

Proposal 10 – To transfer portion of the Old Russell Road Reserve near its previous intersection with Cockburn Road from Other Regional Roads reservation to industrial.

Cockburn Road Henderson has been reconstructed to connect directly into Russell Road with the new alignment being reserved as Other Regional Roads in the MRS.

The western portion of the old reserve for Russell Road is no longer used as part of the regional road but rather a local road providing access to the property to the south. On this basis it is appropriate for the relevant portion of the former reserve for Russell Road to be zoned Industrial as proposed.

It is considered that Council should support the proposal.

**Strategic Plan/Policy Implications**

The Corporate Strategic Plan Key Result Areas which apply to this item are:-

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

### **Budget/Financial Implications**

A minor increase in funding will be required to manage the additional areas of open space and bush land resulting from proposals 6 & 7.

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

Nil

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

### **15.1 (OCM1\_1\_2002) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

#### **RECOMMENDATION**

That Council receive the List of Creditors Paid for December 2001, as attached to the Agenda.

#### **COUNCIL DECISION**

### **Background**

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

### **Submission**

N/A

### **Report**

N/A

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

N/A

### **Budget/Financial Implications**

N/A

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

Nil.

## **15.2 (OCM1\_1\_2002) - COCKBURN POWER BOATS ASSOCIATION - REQUEST FOR DONATION OF RATES (3300120) (KL)**

### **RECOMMENDATION**

That the Cockburn Power Boats Association be advised that Council is not prepared to make any financial contribution to the Club to offset Council rates or other outgoings.

### **COUNCIL DECISION**

### **Background**

The Cockburn Power Boats Association lease an area of land from the Department of Youth, Sport and Recreation at Woodman Point Regional Park. They pay the Ministry \$6840.00 per annum lease on the land. Council, under the terms of the lease, has the power to raise rates to the tenant. Section 6.26 of the Local Government Act provides that all land is rateable except Crown land however, where the Crown leases the land out to a tenant, the land becomes rateable.

### **Submission**

The Cockburn Power Boats (Association) Inc. have made application for a Council grant or donation to offset rates paid.

### **Report**

Under Section 1.4 of the Local Government Act, “owner”, where used in relation to land—

- (a) means a person who is in possession as –
- (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which, in the hands of the lessor, is not rateable land under this Act, but which in the hands of the

lessee or tenant, is by reason of the lease or tenancy, rateable land under this or another Act for the purposes of this Act;

The Cockburn Power Boats (Association) Inc. signed a lease with the Ministry of Sport and Recreation in 1996.

Council did not receive any notification of these lease details until 2000, when a valuation was obtained from the Valuer General. Rates were levied only for the 2000/01 financial period onwards. Back rating of 5 years could have been applied. Current rates are \$1571.00.

Council does provide financial assistance to clubs through the Community Group Capital Grants Scheme however, the Club's application for funding does not meet the criteria for funding under this program.

There are numerous other private clubs situated within the City, who operate and do not receive financial assistance from Council to meet Recurrent Costs. 50% of the Club's members are residents of the City of Cockburn.

The Club recently completed extensions to the Clubhouse at considerable cost to the members. The Club indicates that they should be exempt from Rates as is the Fremantle Sailing Club however, the City of Fremantle advised that the Club is paying Rates, as are other Sailing Clubs in the metropolitan area.

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

Vision "Managing Your City" refers.

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

Current rates levied at \$1571.00.

The General Donations Account (315547) has funds remaining at \$2750.00 for the remainder of 2001/02.

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

Nil

## **16. ENGINEERING AND WORKS DIVISION ISSUES**

Nil

## 17. COMMUNITY SERVICES DIVISION ISSUES

### 17.1 (OCM1\_1\_2002) - PROPOSED AMENDMENT TO COUNCIL POLICY ACS2 "APPLICATIONS TO COUNCIL FOR GRANT FUNDED PROJECTS" (8170) (RA) (ATTACH)

#### RECOMMENDATION

That Council adopt the proposed amended Council Policy ACS2 "Applications to Council for Grant Funded Projects" as attached to the Agenda.

#### COUNCIL DECISION

#### Background

Council allocates funds within its annual budget for distribution to local community organisations and groups to assist in the provision of services. These funds are distributed twice yearly on the basis of pro-forma applications received by Council and as determined by eligibility criteria established by Council under Policy ACS2.

#### Submission

A number of associations have made applications for funds to hold events such as Carols by Candlelight. These events now occur on a regular year by year basis.

#### Report

The original intention of the grant system was to allow for a number of applications to be considered at the same time and assessed using established criteria rather than fund projects in an ad hoc manner with no established criteria. The intention was also to provide funds for one-off projects so that there was no expectation and dependence for ongoing funding.

There appears to be some justification in allowing for an allocation to be made for those organisation that hold annual events such as fetes and carols by candlelight. It is proposed that the criteria be altered to allow for such funding to occur from the amount allocated in the budget for community grants with a limit of \$1,000 being set for any one event. The proposed changes are **bolded/italicised/highlighted** in the attached policy ACS2. A revised Delegated Authority ACS2 is attached which aligns with the policy.



**Strategic Plan/Policy Implications**

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

**Budget/Financial Implications**

Will have no impact on the budget as funds will be drawn from the existing allocation.

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

Nil

**17.2 (OCM1\_1\_2002) - PROPOSED NEW POSITION STATEMENT PSCS16 "CRITERIA FOR AGREEMENTS FOR MANAGEMENT OF COUNCIL CLUB/CHANGE ROOMS (1953) (RA) (ATTACH)**

**RECOMMENDATION**

That Council adopt Position Statement PSCS16 "Criteria for Agreements for Management of Council Club/Change Rooms" as attached, for inclusion in Council's Position Statement Manual.

**COUNCIL DECISION****Background**

At its meeting of 18 December 2001, Council resolved to give consideration to a Position Statement in relation to the management of club/change rooms.

There is a general position of Council, which is reflected in its hire charges to junior sporting clubs, for Council to subsidise the costs of sporting facilities for juniors and that seniors are expected to pay the actual cost. The proposed position statement for the management of club/change rooms will formally reflect the position of Council.

**Submission**

N/A

## **Report**

Council enters User Management Agreements and Lease agreements with clubs and associations that use its club/change rooms. In the case of the User Management Agreements, the club/association essentially have day to day control over the building and limited responsibility for maintenance of the facility. Such agreements seem appropriate where junior clubs/associations use the facilities. In the limited number of cases where lease agreements apply, the organisation has more substantial responsibilities which include maintenance and payment for services. The lease also gives legal responsibility to the lessee for a range of liability issues.

A number of primarily senior clubs/associations that have current user management agreements in place, have liquor licenses for the premises they use. Those familiar with the history of these groups and the facilities they occupy, are aware of the problems that have arisen due to liquor being stored on site with the buildings being regularly broken into or attempts being made to break in. This activity has resulted in a great deal of expense in making the building secure and repairing damage. There have also been instances where the behaviour of members has resulted in damage to the premises and anti social behaviour to surrounding residences.

A strong argument can be put that the general community through the provision of club/change rooms, should not be required to subsidise the cost of clubs and associations providing social entertainment for, in effect, a select group of members. The proposition being put is that those clubs and associations that have liquor licenses for the premises they occupy, should take on substantial responsibility for these facilities as would be reflected in a lease agreement.

It is proposed that all clubs and associations that have User Management Agreements and have liquor licenses be required, on the expiration of the current agreement, to enter lease agreements for the premises they occupy. The facilities this applies to include Tempest Park Club Rooms, Anning Park Club Rooms, Goodchild Reserve Club Rooms and Davilak Clubrooms.

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

To deliver services and to manage resources in a way that is cost competitive without compromising quality.

### **Budget/Financial Implications**

There are some potential savings with an increased number of leases for club change rooms where the lessee takes additional responsibility for their maintenance and upkeep.

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

Nil

**17.3 (OCM1\_1\_2002) - PROPOSED DENTAL HEALTH CLINIC - CIVIC CENTRE SITE, SPEARWOOD (2201726) (RA) (ATTACH)****RECOMMENDATION**

That:

- (1) Council is prepared to sell an area of land of up to 2000m<sup>2</sup> located within the Spearwood Civic Centre site, to Health West for a Dental Health Clinic, at a price determined by the Valuer General, provided that this price is acceptable to the Chief Executive Officer;
- (2) Council advise Health West that as a condition of the sale of the proposed land, Health West will be required to apply to Council for planning approval, in accordance with District Planning Zoning Scheme 2, prior to construction of the Dental Health Clinic proceeding;
- (3) income generated from the sale of the land be transferred into Council's Land Development Reserve Fund; and
- (4) prior to allocation of the site for the Dental Clinic, a master plan be developed for the Civic Centre site which provides for the placement and orientation of the new Dental Health Clinic as part of the Civic Precinct.

**TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL****COUNCIL DECISION****Background**

Council, at its meeting of 18 December 2001, resolved to defer this matter to the January 2002 meeting for clarification of the Perth Dental Clinic's clear intention as to whether they will be purchasing or leasing the proposed site.

The Civic Centre site has a long history. The majority of the site was transferred to the City by the Spearwood District Fruit Growers and Market Gardeners Association for the sum of £500 in 1963. The

dealing was subject to allowing the Spearwood Rovers Soccer Club the continued use of its playing area on the site and the City was to construct a hall on the land for community use purposes.

The City purchased 5 acres of land which presently accommodates the Civic Centre Halls and the Spearwood Rovers Soccer Club relocated to Beale Park in the early 1970's.

The Civic Centre land is held by Council in fee simple and is shown as Council use under the TPS2. The legal opinion on this matter is that the land can be used for a Civic Building which means it can be used by a Government Department, an instrumentality of the Crown or by Council or for administrative or like purposes. Accordingly, the land can then be used for a dental clinic.

### **Submission**

A submission has been made by the Health Department of Western Australia (Health West) seeking sites and Council support for the establishment of a Dental Health Clinic in the City. The Department has had some discussion with the Education Department to establish the clinic in Coolbellup on the Koorilla Primary School site. The Health West now has a preference for such a facility to be placed in the Phoenix/Council central precinct as it has good public transport and is of a more strategic City Centre location. There are clinics established or being established in the regional centres of Rockingham, Armadale and Fremantle.

The Minister of Health has given the direction for the Dental Health Clinic to be established as a matter of priority.

In accordance with Council's decision of 18 December 2001, Health West have advised that they would prefer to lease an area of land from Council at a peppercorn rental. Health West are prepared to purchase the land for a Dental Health Clinic should it be offered for sale by Council. The sale price to be determined by a valuation made by the Office of the Valuer General.

### **Report**

The Health West has shown an interest in acquiring land on the Civic Centre site, either through purchase or at a peppercorn rental, to construct a customised Dental Health Clinic. There appears to be some advantages for the City in pursuing this opportunity:

- Dental Health Clinics are located in significant centres as they provide a service to a broad catchment area. The location of a dental clinic in this precinct reinforces this centre as one of commercial and service significance.

- The Dental Health Clinic attracts approximately 150 people per day and hence, has some commercial spin off effect for the viability of the commercial services that operate in the precinct. In addition, there will be a permanent staff of 15 to 25 based in the Clinic.
- The original purposes for which the City acquired the land was for civic/community services.
- The clinic is State funded and provides a service for those on a pension or pension card.
- The State Government will construct a new facility that can be designed to integrate with the future plans for the precinct and be in architectural sympathy with the existing buildings.
- The Dental Health Clinic will be the only State Government funded service of any significance in the Spearwood area.

The usual practise for the State Government in purchasing land, is the purchase price is determined by the Valuer General. Whilst a valuation has not been sought, the understanding from independent advice is that the 2000m<sup>2</sup> sought has a value in the vicinity of \$350,000.

Under Part 6 30 (2) (c) of the Local Government (Functions and General) Regulations 1996, the sale of land to a Government Department or Instrumentality is exempt from 3.58 of the Local Government Act. That is Council is not required to go to tender for the sale of the land.

Subject to the preparation of a master plan for the site, there could be several options open to the Council in respect to the possible location of the Dental Clinic on the site.

- The option preferred by Health West is a site on the North east corner of the Civic Precinct with Health West purchasing the land from Council.
- The land required by Health West is available within the area currently leased by the Bowling Club but unused by them. Health West have viewed this area but see it as less attractive as it is some distance from the main Phoenix precinct. Council would also need to negotiate with the Bowling Club for an alteration to the lease to acquire the land.
- It may be possible for the main hall of the Civic Centre to be modified to form a Dental Health Clinic with Health West leasing the portion of the building from Council. Health West has advised that they are willing to purchase the land or lease the land at a peppercorn rental. Should Council choose the lease option it is proposed that Health West be required to fund the cost of the

modifications of the main hall and Council enter a long-term lease for the use of the building. Health West have not had the opportunity to price the cost of modifying the building. It is suggested that should this option proceed the design of the modification allow for the lesser hall to be retained for use by Council and the community. The Civic Centre had an operating deficit of \$60,741 in 1999/00 and \$54,472 in 2000/01.

An important consideration for the recommended option for the sale of the land, is for new facilities constructed to have the orientation and aesthetics to match the future development of the site to form a 'Civic Square' or Precinct. It is recommended that a master plan for the Civic Precinct be prepared prior to the final site for the Clinic being agreed. It is proposed that Health West be required to adhere to Council's design requirements for the site as a condition of sale.

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

Key Result Areas "To facilitate and provide an optimum range of community services" and "To ensure that the development will enhance the level of amenity currently enjoyed by the community" refer.

### **Budget/Financial Implications**

The effect of the sale of this land is that Council will be liquidating an asset. It is recommended that the funds generated be expended on the purchase or development of land.

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

The proposed sale of the land is to a State Government Department to provide a public service.

## **17.4 (OCM1\_1\_2002) - RECREATION ADVISORY COMMITTEE RESTRUCTURE (8162) (AJ) (ATTACH)**

<p><b>RECOMMENDATION</b></p> <p>That Council:</p> <p>(1) disband the Recreation Advisory Committee membership as previously adopted by Council;</p> <p>(2) establish a revised Recreation Advisory Committee comprising of the following membership:</p> <ul style="list-style-type: none"><li>• Two (2) Elected Members</li><li>• Recreation Services Coordinator</li><li>• Two (2) Sporting Club Representatives</li></ul>
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- Two (2) Community Representatives
- Two (2) Recreation, Industry or Organisation Representatives
- One (1) Business Sector Representative
- One (1) Youth Representative
- One (1) Aged/Disabled Representative

to be appointed by Council at a future meeting; and

- (3) adopt the revised Terms of Reference for the City of Cockburn Recreation Advisory Committee as attached to the Agenda.

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

## **COUNCIL DECISION**

### **Background**

Council, at its December 1998 meeting, decided to revise the Recreation Advisory Committee to comprise of the following membership:

- Two (2) Councillors
- Recreation Services Coordinator
- Three (3) Cockburn Domestic Sports Council Representatives selected by the Sports Council
- Three (3) Community representatives appointed by Council following a public call for nominations
- Three (3) Recreation Industry or Recreation Organisation representatives appointed by Council following a call for nominations.

This format for the Recreation Advisory Committee has been in operation since the decision to revise the Committee was made in December 1998.

### **Submission**

N/A

### **Report**

At the December 2001 meeting, the Recreation Advisory Committee reviewed its terms of reference with particular emphasis placed upon

the structure of the Committee. Part of this review included the formalising of the Committee Mission Statement as follows:

*'Promote, support, develop and generate awareness of local community recreational initiatives, facilities and services in the Cockburn area.'*

The Committee as a whole, felt it necessary to broaden the scope and also the knowledge and experience base available to them. The following motion was carried at the Recreation Advisory Committee meeting of 6 December 2001:

To recommend that the Recreation Advisory Committee Membership be revised to the following:

- Two (2) Councillors
- Recreation Services Coordinator
- Two (2) Sporting Representatives
- Two (2) Community Representatives
- Two (2) Recreation Representatives
- One (1) Business Representative
- One (1) Youth Representative
- One (1) Aged/Disabled Representative

**CARRIED**

The Recreation Advisory Committee is a Council appointed committee under section 5.9 of the Local Government Act.

Three new representative positions have been created, while the representation of the Sporting, Community and Recreation representatives have each been reduced by one member.

The introduction of the Business, Youth and Aged/Disabled is expected to increase communication and cooperation between other Council appointed Advisory Committees such as the Youth Advisory Council (Y.A.C.) and the Disability Advisory Committee (D.A.C.) along with external business interests.

Councillors Ian Whitfield and Alistair Edwards have previously been elected to the Recreation Advisory Committee and it is expected that they will retain their interest in remaining on the committee.

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

Key Result Areas "Facilitating the needs of your community" refer.



**Budget/Financial Implications**

N/A

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

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

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

Nil

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

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

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

**23. CONFIDENTIAL BUSINESS**

Nil

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

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

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

**25. CLOSURE OF MEETING**