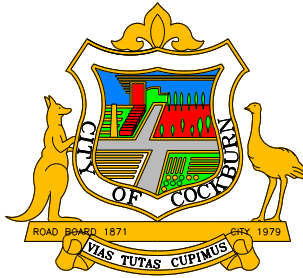


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**TUESDAY, 18 JANUARY 2005**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 18 JANUARY 2005 AT 7:00 PM

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	Page
1. DECLARATION OF MEETING.....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED) .....	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER).....	1
4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER).....	1
5. APOLOGIES AND LEAVE ABSENCE .....	1
6 (OCM 18/01/2005) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	1
7. PUBLIC QUESTION TIME .....	15
8. CONFIRMATION OF MINUTES.....	15
8.1 (OCM 18/01/2005) - ORDINARY COUNCIL MEETING - 21/12/2004.....	15
8.2 (OCM 18/01/2005) - SPECIAL COUNCIL MEETING - 23/12/2004.....	15
8.3 (OCM 18/01/2005) - SPECIAL COUNCIL MEETING - 23/12/2004.....	16
9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE.....	16
10. DEPUTATIONS AND PETITIONS .....	16
11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (IF ADJOURNED) .....	16
12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER .....	16
13. COUNCIL MATTERS.....	16
13.1 (OCM 18/01/2005) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 6 DECEMBER 2004 (1054) (DMG) (ATTACH) .....	16
13.2 (OCM 18/01/2005) - PROPOSAL TO MAKE A LOCAL LAW - STANDING ORDERS (1148) (DMG) (ATTACH) .....	18

14.	PLANNING AND DEVELOPMENT DIVISION ISSUES .....	21
14.1	(OCM 18/01/2005) - PROPOSED (INITIATION) REZONING AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - LOT 8001 COCOS DRIVE, BIBRA LAKE - OWNER/APPLICANT: WHITE RIVER PTY LTD (4412800) (JB) (ATTACH) .....	21
14.2	(OCM 18/01/2005) - HOME BUSINESS - CHIROPRACTOR - 53 BARRINGTON STREET MUNSTER - OWNER/APPLICANT: THOMAS FRANCIS KENNEDY/IAN MESSANGER (3315267) (AB).....	25
14.3	(OCM 18/01/2005) - LAND MANAGEMENT STRATEGY 2005 - 2010 (4809) (SMH) (ATTACH).....	29
14.4	(OCM 18/01/2005) - MODIFICATION TO STRUCTURE PLAN - LOT 446 LYON ROAD, AUBIN GROVE - OWNER/APPLICANT: PRIZELAND PTY LTD/ROBERTS DAY (9645E) (JLU) (ATTACH).....	33
14.5	(OCM 18/01/2005) - LOCAL STRUCTURE PLAN LOTS 18 & 19 GAEBLER ROAD, AUBIN GROVE - OWNER/APPLICANT: KB LANG; SA PERIBONIO/KOLTASZ SMITH, ON BEHALF OF NICHOLSON ROAD DEVELOPMENT TRUST (9671) (CP) (ATTACH) .....	36
14.6	(OCM 18/01/2005) - RETROSPECTIVE PLANNING APPROVAL - RETAINING WALLS - 7 DALMATIA COURT, COOGEE, WA 6166 - OWNER/APPLICANT: TONI SURJAN/INES ANTOINETTE SURJAN (3318993) (MD) (ATTACH) .....	41
14.7	(OCM 18/01/2005) - AUSTRALIAN TECHNICAL COLLEGE - EXPRESSION OF INTEREST FOR ITS ESTABLISHMENT WITHIN THE CITY OF COCKBURN (9006) (SMH) .....	45
14.8	(OCM 18/01/2005) - LOCAL STRUCTURE PLAN - LOTS 458 AND 23 RUSSELL ROAD, HAMMOND PARK - OWNER/APPLICANT: CHS PTY LTD; CITY OF COCKBURN/TAYLOR BURRELL BARNETT (9638F) (CP) (ATTACH) .....	48
14.9	(OCM 18/01/2005) - RECREATION FACILITIES - RESERVE NO. 7756 HAMMOND ROAD, SUCCESS - OWNER: CITY OF COCKBURN (4621) (JLU) (ATTACH) .....	53
14.10	(OCM 18/01/2005) - EXPENDITURE OF PUBLIC OPEN SPACE CASH-IN-LIEU MONIES IN THE CITY OF COCKBURN - OWNER: CITY OF COCKBURN (9477) (JLU) (ATTACH) .....	57
14.11	(OCM 18/01/2005) - MEDICAL CENTRE, PHARMACY AND OFFICE - 6 BARRINGTON STREET, SPEARWOOD, WA 6163 - OWNER/APPLICANT: CARCIONE NOMINEES/HOLTON CONNOR ARCHITECTS (3316863) (MR) (ATTACH).....	64

	<b>Page</b>
14.12 (OCM 18/01/2005) - PROPOSED STRUCTURE PLAN - LOT 9 HAMMOND ROAD, SUCCESS - APPLICANT: KOLTASZ SMITH (9656B) (JLU) (ATTACH).....	71
15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES .....	76
15.1 (OCM 18/01/2005) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH) .....	76
15.2 (OCM 18/01/2005) - TSUNAMI RELIEF APPEAL (5300) (KL).....	77
16. ENGINEERING AND WORKS DIVISION ISSUES.....	78
16.1 (OCM 18/01/2005) - SOLOMON ROAD DEVELOPMENT AREA AND COCKBURN CENTRAL MAIN DRAINAGE (450058) (BKG).....	78
16.2 (OCM 18/01/2005) - AUTHORITY TO USE TRAFFIC SIGNS AND DEVICES AT ROADWORKS - NEW INSTRUMENT OF AUTHORISATION (4306) (IS).....	81
17. COMMUNITY SERVICES DIVISION ISSUES.....	82
17.1 (OCM 18/01/2005) - CONCERT AT MANNING PARK PROPOSED FOR 19 MARCH, 2005 (5401) (DMG) (ATTACH) .....	82
18. EXECUTIVE DIVISION ISSUES .....	84
19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	85
19.1 (OCM 18/01/2005) - COCKBURN CENTRAL YOUTH CENTRE COMMITTEE (81364) (DMG).....	85
19.2 (OCM 18/01/2005) - PROPOSED AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - COMPULSORY RAINWATER TANKS (6605) (SMH) (ATTACH).....	87
20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING.....	94
21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS .....	94
22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE.....	94
23. CONFIDENTIAL BUSINESS.....	94
24. RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995) .....	95
25. CLOSURE OF MEETING.....	95

**CITY OF COCKBURN****AGENDA TO BE PRESENTED TO THE ORDINARY  
COUNCIL MEETING TO BE HELD ON  
TUESDAY, 18 JANUARY 2005 AT 7:00 PM**

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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 AND CONFLICT OF INTEREST (by Presiding Member)**
5. **APOLOGIES AND LEAVE ABSENCE**
6. **(OCM 18/01/2005) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**Andrew Sullivan – Ordinary Council Meeting – 21 December, 2004** – On behalf of the Coogee Coastal Action Coalition Mr Sullivan requested that the questions be answered at the Special Council Meeting held on 23 December 2004. There was insufficient time to respond to the 65 questions put by Mr Sullivan by the requested date, and therefore have been included on this agenda.

Q1 “CCAC has been advised that during a private meeting between elected members and representatives from Australand that the developer allegedly indicated or implied that unless the Cockburn Council was prepared to adopt the role as Waterways Manager that

the project would not proceed. Can the Council confirm whether such a statement or a statement to that effect, was made by any representative of the developers to any elected member or Council staff member?"

A. Refer to the report prepared for the Special Council Meeting held on 23 December 2004.

Q2 "What is the exact extent and nature of any informal and formal advice that has been provided to elected members by either the officers of the City of Cockburn or the developers and their consultants, regarding the Waterways Environmental Management Program and the role of the Waterways Manager?"

A. Refer to the report prepared by the Special Council meeting held on 23 December 2004. Discussions and specialist presentations on the Waterways Environmental Management Program have occurred since 2002.

Q3 "Have all elected members been fully and adequately advised in relation to these matters such that they can exercise their right to vote on such matters as governed by Council's standing orders, and specifically, have all elected members received comprehensive information in relation to all of the matters raised in CCAC's questions as contained herein, and in our letter addressed to the CEO dated 2 July 2004?"

A The first part of this question can only be responded to by each elected member. Your questions of 21 December 2004 were circulated to all elected members as requested. Your submission dated 2 July 2004 was circulated to all elected members on 8 July and was responded to in writing on the same date.

Q4 "Given that the proposed Port Coogee Local Structure Plan has not been endorsed by the Western Australian Planning Commission or the Minister for Planning and that the Council's approval of that structure plan is conditional, how does the Council propose to handle any changes that may be made to the structure plan and the subsequent impacts such changes may have on the roles, responsibilities and income sources provided for the Waterways Environmental Management Program?"

A Variations to structure plans are provided for under clause 6.2.14 of TPS No. 3.

Q5 "Has Council received a consolidated final version of the Waterways Environmental Management Program and if so when was it received?"

A Yes. The draft final version was received on 1 December 2004, and the final document was received on 23 December 2004. The

differences between the two versions were very minor.

Q6 “Has the Waterways Environmental Management Program been finalised in concurrence with the Environmental Protection Authority (EPA) as required by Environmental Conditions of the Metropolitan Region Scheme (MRS) Amendment 1010/33 (Port Catherine)?”

A The Western Australian Planning Commission in concurrence with the EPA is required to finalise the Waterways Environmental Management Program and the identification of a Waterways Manager. The Council only provides advice. The Council adopted its position on 23 December 2004. The Western Australian Planning Commission, EPA and the proponent were advised accordingly.

Q7 “If the Waterways Environmental Management Program has not been finalised in concurrence with the EPA, will Council defer making a decision in relation to the role of Waterways Manager until such time as a finalised Waterways Environmental Management Program is received and such that Council can seek independent advice on the final EPA endorsed Waterways Environmental Management Program rather than a preliminary Waterways Environmental Management Program that may be subject to considerable amendment?”

A The Council made its decision on 23 December 2004.

Q8 Has a Waterways Environmental Management Program been referred by Council to an independent party for review and advice as previously required by Council, and if so, when?”

A Yes. As the environmental, legal and financial components of the Waterways Environmental Management Program were received from the proponent they were sent to the respective relevant independent party for assessment with all comments to be provided to the City by 17 December 2004.

Q9 “Can the Council name the independent party and identify their relevant qualifications in relation to providing advice on all of the matters covered by the Waterways Environmental Management Program?”

A Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004.

A10 “Does the independent party have any personal connection or financial relationship with

- (a) the developers;
- (b) any owner of any lands at the Port Coogee site
- (c) the Western Australian Planning Commission; and/or
- (d) any past or present member of the Port Coogee Now group?”

- A None of the independent parties which provided the independent advice declared an interest or a conflict of interest, that prevented them from providing the advice sought by the City.
- Q11 “Has any formal or informal advice on the Waterways Environmental Management Program been received by Council from and independent party?”
- A Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004.
- Q12 “Has the independent party been asked to provide formal or informal advice on the functions, responsibilities and liabilities of the Waterways Manager?”
- A Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004.
- Q13 “Will the Council make publicly available all formal and informal advice provided by the independent party prior to making a decision in relation to the role as Waterways Manger?”
- A Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004.
- Q14 “Will the Council provide adequate opportunity for members of the public to scrutinise any formal or informal independent advice and provide feedback to the Council?”
- A No. The formal independent advice was sought for the specific purpose of assisting the Council to consider the matter on 23 December 2004.
- Q15 “Given that the role of Waterways Manager is governed by the requirements of the Waterways Environmental Management Program, is Council absolutely satisfied that the Waterways Environmental Management Program covers the full extent of all possible environmental problems relative to the proposed artificial waterways (canals and marina) and the impacts on coastal processes that will or may arise form the proposed development?”
- A Refer to the Council decision dated 23 December 2004.
- Q16 “Has Council adopted the required ‘precautionary principle’ in assessing the adequacy of the Waterways Environmental Management Program and in considering its potential role as Waterways Manager?”
- A Refer to the Council decision dated 23 December 2004.



- Q17 “Is Council satisfied that the Waterways Environmental Management Program and the specified functions of the Waterways Manager fully comply with the WAPC’s Development Control Policy DC1.8 Canal Estates and other Artificial Waterway Developments?”
- A Refer to the Council report prepared for the Council Meeting held on 16 March 2004.
- Q18 “Has adequate consideration been given to problems that will arise in relation to the establishment of the waterway environment where mosquitos will breed?”
- A No. Normal Health Department requirements will apply. Mosquito breeding in an ocean environment is highly unlikely.
- Q19 “What control, if any, have been established to safeguard public health in relation to mosquito-borne diseases such as Ross River Virus, etc.?”
- A Normal Health Department practices will apply.
- Q20 “What safeguards have been adopted to ensure that the artificial waterways, including the recently added so-called ‘artificial swimming beach’, will satisfy water quality criteria that provides for safe public swimming?”
- A Refer to the requirements of the Waterways Environmental Management Program
- Q21 “Has the Council identified whether the proposed sand bypassing system is capable of being undertaken by a suitably experienced contractor on behalf of the Council?”
- A The Council has not identified a suitably experienced sand by-passing contractor at this stage.
- Q22 “Has the Council identified whether the specialised dredging, earth moving, and/or pumping machinery will be available locally and for sufficient period of time to carry out the required tasks when required and what alternatives are available if such machinery is unavailable or proves to be incapable to carry out the tasks involved?”
- A Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004.
- A23 “What is the final proposal adopted in the Waterways Environmental Management Program in relation to the requirement to bypass sand around the development?”

- A The installation of a sand by-passing pipe, to provide for future by-passing as required.
- Q24 “Has an assessment been conducted to determine how many days during the late winter/spring period the water at Coogee Beach is turbid to the extent that the pumping of sand slurry directly into the sea would have no discernible impact due to the background cloudiness of the water during storm events?”
- A Refer to the Waterways Environmental Management Program. Refer to the Council report prepared for the Special Council Meeting held on 23 December 2004. The Environmental Review (August 2002) has been approved by the EPA and the Waterways Environmental Management Program (December 2004) has yet to be formally approved by the EPA.
- Q25 “Will the sand slurry that is pumped into the ocean have different characteristics in relation to rates of settlement and subsequent stability when compared with the natural seabed and what are the environmental consequences of any such variance in characteristics that could be anticipated?”
- A The Environmental Review (August 2002) has been approved by the EPA and the Waterways Environmental Management Program (December 2004) has yet to be formally approved by the EPA.
- Q26 “Given that the EPA have required that the sand by-passing will not be allowed to cause turbidity above natural background levels, will the sand slurry be pumped directly into the sea or will it be required to be pumped into settlement ponds on the beaches, and if so where will these settlement ponds be located?”
- A Sand by-passing will have to be undertaken in accordance with EPA requirements and with the approval of the Western Australian Planning Commission. This is addressed in the Waterways Environmental Management Program (December 2004).
- Q27 “Given that the developer has indicated the sand by-passing system may need to pump 5,000 cubic metres of sand per annum (proposed to be transported in a single operation every 3 – 5 years) and that officers of the Department for Planning and Infrastructure have previously indicated that the amount to be transported may need to be substantially more than that predicted by the developer, can the Council indicate how many days, weeks or months it will take to bypass 25,000 cubic metres of sand in any one year using the proposed sand bypassing system in a manner that does not cause turbidity above daily background levels?”
- A Sand by-passing will have to be undertaken in accordance with EPA requirements and with the approval of the Western Australian

Planning Commission.

Q28 “Has the Council based its assessment of the responsibilities and costs of accepting the role of the Waterways Manager on a scenario that requires 25,000 cubic metres of sand to be by-passed annually, and if not, why not?”

A The Council has based its decision on the scenario contained in the Waterways Environmental Management Program (December 2004) which has yet to be formally approved by the EPA.

Q29 “What will be the physical and visual impact on the main section of Coogee Beach of pumping 25,000 cubic metres of sand in one season, ie. will it change the bathymetry of the seabed or the profile of the beach?”

A The Environmental Review (August 2002) has been approved by the EPA and the Waterways Environmental Management Program (December 2004) has yet to be formally approved by the EPA.

Q30 “Will sand moving and grading machinery will need to operate on the section of Coogee Beach between the jetty and the development site, and will there be any beach closures in these area?”

A This is unknown at this stage, but based on the Waterways Environmental Management Program this appears unlikely. During the operation of the sand by-passing equipment, the outlet and deposition areas will need to be protected from public access as a safety precaution.

Q31 “What area(s) will be affected by the mining of sand from the beaches north of the marina breakwaters?”

A According to the Environmental Review (August 2002) and the Waterways Environmental Management Program (December 2004) this will occur as required from the sand accumulated on the northern side of the northern breakwater to the marina.

Q32 “On the basis that there will be urban development at the old Power Station and along the former North Coogee industrial strip, what impact will sand mining of these beaches have on future adjoining residents in relation to noise, odours, visual amenity and access to these beaches?”

A The operation of any sand by-passing equipment will have to comply with DoE requirements and EPA regulations. The operation of the equipment is addressed in the Waterways Environmental Management Program (December 2004).

A33 “Will the beaches proposed to be mined north of the development be

closed to the public during the sand by-passing period?”

A Yes, but only to the extent necessary to ensure public safety.

Q34 “Given that seaweed wracks have occurred immediately north of the Fremantle Harbour in recent years (albeit not at bathers beach for several years), has the Waterways Environmental Management Program been amended to consider what will happen in the event that major seaweed wracks occur at Coogee?”

A This matter is addressed in the Waterways Environmental Management Program (December 2004).

Q35 “Given that similar marina projects at sites such as Busselton and Glenelg in Adelaide, which rely on sand by-passing that has been granted environmental approval in the same manner as the Port Coogee proposal, but which have resulted in management disasters for the local authorities, what guarantees can Council provide that similar management disasters will not occur at Coogee?”

A The Council has no in-house specialist expertise and therefore must rely on the professional advice of the project consultants, the advice of independent specialists and the recommendations made and approvals received by the Western Australian Planning Commission and EPA.

Q36 “In the event that the current proposal for sand by-passing fails, what contingency plans have been established to relocate sand from the north of the project to the south and what impacts will this cause on local communities and the usage and access of local beaches?”

A Alterations to the in-situ sand by-passing pipe is to use either dredging or trucking of sand. These are possible options due to the small volume of sand predicted to be involved. Limitations to public access to the works area would be determined at the time.

Q37 “Will the Council provide a written guarantee to the community that it will not allow a groyne, or series of groynes, to be constructed along the beaches south of the development as a means of controlling erosion caused by the new breakwaters?”

A The Council is unable to give any sound guarantee as the decision to allow or not allow groynes, jetties or other structures on a regional reserve as such approval rests with the Western Australian Planning Commission.

Q38 “Given that the draft Waterways Environmental Management Program proposal in relation to the sand bypassing system proposed to mine beach sand in the vicinity of the historic shipwrecks of the James (1812 – 1830) and the Diana (1860 – 1878), what measures

have been put in place to satisfy the requirements of the Commonwealth's Historic Shipwrecks Act (1979) to protect these sites and how does that impact on the proposed sand by-passing operation?"

A The Environmental Review (August 2002) has been approved by the EPA and the Waterways Environmental Management Program (December 2004) has yet to be formally approved by the EPA.

Q39 "What guarantees are included in the Waterways Environmental Management Program, if any, will ensure that the popular Omeo dive wreck will not be adversely impacted by:

(a) being seasonally or permanently covered by sand due to changes in the bathymetry (contour levels) of the seabed resulting from the construction of the marina breakwaters;

(b) being impacted by water turbidity levels that exceed natural background levels as a result of the five sand by-passing outfall pipes discharging sand slurry directly into the ocean in the vicinity of the Omeo;

(c) being closed temporarily or permanently to the public due to sand by-passing operations?"

A The future of the Omeo wreck is not addressed in the Waterways Environmental Management Program (December 2004). This is a matter for the State to deal with as the Omeo wreck is located outside the district of the City of Cockburn, and lies within the Waterways Reserve under the MRS.

Q40 "Will the developer or the Council ultimately own the proposed jetties and boardwalks if the council adopts the role as Waterways Manager?"

A Structures that are in public ownership will be the responsibility of the City. Structures that fall within the Waterways Management reserve will be the responsibility of the Waterways Manager.

Q41 "Will any or all of the seabed land the subject of the artificial waterways be provided in freehold title to either the developer or the Council?"

A This is not known at this stage. It appears that the proponent is suggesting that the seabed be reserved, and vested in the City with the power to lease.

Q42 "What forms of tenure, if any, will exist over the artificial waterways?"

A Refer to the Waterways Environmental Management Program

(December 2004).

Q43 “What guarantees are there that the developer will construct any of or all of the boat pens, jetties and boardwalks proposed for the marina waterbody?”

A At this stage in the planning process, guarantees in respect to development have not been gained. Even with all the approvals in place there is no obligation for the proponent to proceed. There, however, may be undertakings and penalties in the State Development Agreement between the State and the Developer, to which the City is not a party.

Q44 “Will all of the proposed boat pens, jetties and boardwalks be publicly accessible?”

A It is not certain at this stage in the process where public access may be limited. The Council is keen to ensure that public access is maximised.

Q45 “What guarantee can Council give that the jetties and boardwalks will remain publicly accessible at all times in perpetuity?”

A The extent of the public accessibility has yet to be determined. Once decided, this should reflect the future arrangement.

Q46 “Will the developer gain any income from any of the boat pens in the marina waterbody, or will the Council be the recipient of all of the income from these boat pens?”

A Refer to the Council decision made at the Special Council Meeting held on 23 December 2004.

Q47 “Who will construct the proposed commercial development over the marina waterbody and will Council receive income from this portion of the existing seabed land?”

A All development is proposed to be constructed by the developer. The matter of income is addressed in the Council decision made at the Special Council Meeting held on 23 December 2004.

Q48 “Will the Council be responsible for the ongoing maintenance of the breakwaters, boat pens, jetties, boardwalks and artificial waterway structures adjacent to public lands?”

A The City will be responsible for the maintenance of all public land and reserves, together with the associated public structures and facilities. The Waterways Manager and the Public Marina Manager will be allocated responsibilities according to the Waterways Management and leasing arrangements. Refer to the report prepared for the

Special Council Meeting held on 23 December 2004 together with the Council resolution.

Q49 “What are the recurrent and life cycle costs associated with accepting the long term responsibilities for these breakwaters, pens, jetties, boardwalks, and artificial waterways structures?”

A This is addressed in the Financial Plan associated with the Waterways Environmental Management Program (December 2004).

Q50 “What are the costs associated with maintenance dredging of the artificial waterways and the entrance channel to the marina?”

A This is addressed in the Financial Plan associated with the Waterways Environmental Management Program (December 2004), by way of the establishment of a Contingency Reserve Fund that will accumulate \$1.6 million by the year 2012. Refer to the Council decision made at the Special Council Meeting held on 23 December 2004.

Q51 “What are the recurrent costs associated with ongoing water quality testing?”

A Refer to the report prepared for the Special Council Meeting held on 23 December 2004.

Q52 “What are the recurrent costs associated with the removal of flotsam and jetsam from the artificial waterways?”

A Refer to the Financial Plan associated with the Waterways Environmental Management Program (December 2004).

Q53 “Has the Council costed the operation of providing refuelling and effluent pump out facilities?”

A This cost will be the responsibility of the lessee of the public marina as proposed in the Waterways Environmental Management Program (December 2004) and in the associated draft Legal Agreement.

Q54 “What specific management structure will be put in place to manage the daily operations associated with a 300 boat pen marina and what are the costs associated with this?”

A The Waterways Environmental Management Program (2004) and associated draft Legal Agreement proposed that this would be the responsibility of the lessee of the public marina.

Q55 “Has the council budgeted for the maintenance costs noted above?”

A A legal agreement has yet to be finalised.

Q56 “Has the Council sought independent advice on the predicted costs and incomes associated with the role of the Waterways Manager?”

A Yes. Refer to the report prepared for the Special Council Meeting Held on 23 December 2004.

Q57 “Given that legitimate concerns have been raised regarding the functional practicality and extent of the proposed sand by-passing process, what is the forecast worst case scenario in relation to the annual operating cost of the sand by-passing system?”

A This matter is addressed in the Waterways Environmental Management Program (December 2004), which provides for 15,000m<sup>3</sup> of sand being by-passed every 3 years. It is understood that DPI prefer to allow this volume being by-passed every 2 years. Despite this, by-passing will be undertaken as required and funded from the Reserve Fund or other appropriate income source.

Q58 “What is the upper limit of income that can be realistically obtained through special area rates and any other incomes that may be available through accepting the roles as Waterways Manager?”

A Refer to the report prepared for the Special Council Meeting held on 23 December 2004, together with the Council decision.

Q59 “Has Ministerial approval been granted to apply a differential or special area rate to the Port Coogee Site?”

A Ministerial approval is not required.

Q60 “If the operating costs associated with the role of Waterways Manager increase significantly or if Council has to pay compensation to affected members of the public if the development results in catastrophic management problems (similar to those experience at Port Geographe), will the Council be required to utilise general revenue to cover such costs?”

A The Council’s objective is to ensure that all expenditure and income associated with the operation and maintenance of the marina is independent of the remainder of the district. However, in the case of the catastrophe, this situation may need to be reviewed in conjunction with the State and Federal Governments, given that such an event may require special consideration and apply to other coastal developments, inside and outside the City of Cockburn.

Q61 “Has Council sought advice from its insurers in relation to the ability to obtain the following types of insurance for the areas proposed to be managed by the Waterways Manager:

(a) adequate public liability insurance for all areas and all



management operations;

- (b) insurance covering repairs or replacement of any of the breakwaters and fishing platform structures;
- (c) insurance covering the replacement of any of the boat pens, jetties and boardwalks?
- (d) insurance covering consequential damages resulting from any failure by the Waterways Manager to adequately maintain the waterways and the adjoining coastal foreshores and coastal strips.”

A Preliminary advice has been sought in respect to insurance. Provision for an insurance premium has been included in the Financial Plan. Refer to the Council decision at the Special Council Meeting held on 23 December 2004.

Q62 “Will Council’s insurers cover all events including storm events, fire, explosions on vessels and the refuelling station, accidental damage, inadequate engineering of structures, and death or injury caused as a result of global warming and sea level rises.”

A Refer to the Council decision at the Special Council Meeting held on 23 December 2004.

Q63 “What guarantees exists that the undertakings that may have been made by Port Catherine Developments Pty Ltd (PCD) will be honoured by the parent company Australand Holdings Ltd in the event that PCD is unable to fulfil any part of its obligations in relation to the construction of the development and initial management responsibilities provided for the Waterways Environmental Management Program, and are such guarantees legally enforceable by the Council?”

A The City is unaware of the contractual arrangements in this regard, between the State and Consolidated Marine Services and Port Catherine Development and Australand Holdings. The Council is not in a position to enforce any guarantees about the future of the development unless it requires performance bonds as a condition of any development approval it may issue for the project.

Q64 “Has the State Government agreed to underwrite or guarantee that the development will be satisfactorily completed?”

A Not that the City is aware of.

Q65 “Has the State Government agreed to indemnify the Council and/or the Waterways Manager from management problems that are beyond the scope of those indicated in the final Waterways Environmental

Management Program and is such an indemnity legally enforceable by the Council?"

- A Not that the City is aware of. However it is proposed that the City and the developer enter into a legal agreement for the purpose of describing roles and responsibilities in relation to the Waterways Management, but this does not include indemnities, and at this stage no other contractual arrangements have been contemplated between the City and any other party.

**Marie Slyth – Public Question Time – Special Council Meeting – 23 December 2004**

- Q How does Council propose to satisfy its ratepayers that they will not be hit with similar horrific upkeep expenses should the Port Coogee Marina go ahead, since the Office of the Minister for Planning has already decreed that the plan is to pipe sand from the northern side of the marina through to Coogee Beach?

- A The Council has received independent expert advice on the Waterways Environmental Management Program, relating to environmental management and monitoring, the financial plan and legal agreement, for which it had due regard when considering the likely role and responsibility of the Waterways Manager. At the Special Council Meeting held on 23 December 2004, the Council resolved to be the nominated Waterways Manager subject to a number of conditions, included to ensure, that any future liability on the City is minimised. The sand by-pass pipe is proposed to be included to move sand from north to south of the marina when required, so as to ensure a minimum of inconvenience to the public.

- Q How will Council manage the huge build-up of seagrasses on the northern side of the marina and the accompanying stench that will impact on residents close by?

- A Based on the technical data provided to date it is unlikely that large amounts of seagrass will accumulate on the northern side of the marina. The Waterways Environmental Management Plan has been approved by the EPA.

- Q How many ratepayers have been shown these essential management plans by Council to date; there must be some in existence if Council is going to take the role on. Ratepayers must know how much additional cost they are up for?

- A The City has been involved in ongoing discussions about the Waterways Environmental Management Program with the proponent since 2002. The draft final plans and program were not available to the City until the end of November and early December 2004.

Following receipt of the plans and program they were referred to independent experts for advice before the Council considered its position in respect to the Waterways Environmental Management Program and the management of the Waterways. Prior to the draft final plan and program being prepared, the Environmental Review and the Waterways Environmental Management Program were advertised for public comment. Following this the EPA approved the Environmental Review but has yet to approve the Waterways Environmental Management Program. The Council, at the Special Council Meeting on 23 December 2004, made it quite clear, in its decision that any Specified Area Rate would only apply to the project area and that the City should receive income from the operation of the boat pens and associated marina facilities.

## 7. PUBLIC QUESTION TIME

## 8. CONFIRMATION OF MINUTES

### 8.1 (OCM 18/01/2005) - ORDINARY COUNCIL MEETING - 21/12/2004

#### RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 21 December 2004 be adopted as a true and accurate record.

#### COUNCIL DECISION

### 8.2 (OCM 18/01/2005) - SPECIAL COUNCIL MEETING - 23/12/2004

#### RECOMMENDATION

That the Minutes of the Special Council Meeting held on Thursday, 23 December 2004, to consider amending its 2004/05 Municipal Budget to enable additional funds to be allocated to conduct a Concert at Manning Park on 19 March 2005, be adopted as a true and accurate record.

**COUNCIL DECISION**

**8.3 (OCM 18/01/2005) - SPECIAL COUNCIL MEETING - 23/12/2004**

**RECOMMENDATION**

That the Minutes of the Special Council Meeting held on Thursday, 23 December 2004, to consider the Waterways Environmental Management Programme for Port Coogee, be adopted 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 OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

**13. COUNCIL MATTERS**

**13.1 (OCM 18/01/2005) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 6 DECEMBER 2004 (1054) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee, as attached to the Agenda, dated

6 December 2004 and adopts the recommendations contained therein.

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

**COUNCIL DECISION**

**Background**

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 6 December, 2004. The Minutes of the Meetings are required to be presented to Council and its recommendations considered by Council.

**Submission**

The Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting are attached to the Agenda. Items dealt with at the Committee Meeting form the Minutes of that Meeting.

**Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council.

Any Elected Member may withdraw any item from the Committee Meeting for discussion and propose an alternative recommendation for Council's consideration.

Any such items will be dealt with separately, as provided for in Council's Standing Orders.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Committee Minutes refer.

**Legal Implications**

Committee Minutes refer.

## Community Consultation

Committee Minutes refer.

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

Committee Minutes refer.

### 13.2 (OCM 18/01/2005) - PROPOSAL TO MAKE A LOCAL LAW - STANDING ORDERS (1148) (DMG) (ATTACH)

#### RECOMMENDATION

That Council make a Local Law Relating to Standing Orders, as contained in the attachment to the Agenda.

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

#### COUNCIL DECISION

## Background

At the Council Meeting conducted on 20 July 2004, Council adopted a Draft text of the Standing Orders Local Law, proposing a number of amendments to the current Standing Orders for the purpose of seeking public comment. The submission period closed on 9 September 2004.

In addition, Council sought a legal opinion on the interpretation of Clause 10.6(f) relating to the Order of Call in Debate.

Subsequently, at its Meeting held on 19 October 2004, Council carried the following resolution:-

*“that Council:*

(1) *make a Local Law relating to Standing Orders, as contained in the attachment to the Agenda, subject to deleting clauses 10.6(f), (g), and (h) and substituting them with the following:*

1. *Other speakers against and for the motion in alternating order while there are speakers with differing views remaining;*

2. *Other speakers notwithstanding they are of the same view provided that no member (other than mover exercising right of reply) may speak twice;*
  3. *Mover takes right of reply which closes the debate;*
  4. *No member (other than the mover who may elect to open debate and speak in reply) may speak twice.*
- (2) *re-advertise the amended Local Law for public comment as the amended clause has the effect of substantially altering current Council Meeting practices.*

### **Explanation**

*It is considered that Elected Members should be able to use Council Meetings as a forum to publicly state their individual views on matters under consideration by Council, regardless of whether their views are the same, or different, from other members. By inserting the alternative clauses 10.6 (f), (g), (h) and (i), these views will be able to be presented. Sub-clause (2) is self explanatory.”*

Resulting from this decision of Council, the revised Local Law was advertised for public comment, with the period for submissions closing on 9 December 2004.

### **Submission**

To adopt the Draft as adopted by Council at its October 2004 Meeting.

### **Report**

At the close of the advertising period, no public submissions were received.

In respect of the issue of interpreting Clause 10.6(f), legal advice received is summarised as follows:-

- (a) Item (f) is clearly ambiguous.
- (b) The interpretation which appears more closely to follow the intent of the present wording in item (f) is to allow for speakers against and for the motion in alternating order while speakers with differing views remain, and thereafter to allow all other members to speak to the motion, even if successive speakers are of the same view.
- (c) The Council should determine whether it wishes the subclause to have that meaning, or the opposite meaning which would close debate when the alternating views are exhausted.

- (d) In any event, it should be made clear that no member other than the mover may speak twice.

The following suggestions for alternative drafts for the item in subclause (1) substituting for the present (f) and (g) are offered in the advice.

**A. Substitute provisions allowing for all members wishing to speak to participate in debate**

- “(f) Other speakers against and for the motion in alternating order while there are speakers with differing views remaining;
- (g) Other speakers notwithstanding they are of the same view provided that no member (other than mover exercising right of reply) may speak twice;
- (h) Mover takes right of reply which closes the debate;
- (i) No member (other than the mover who may elect to open debate and speak in reply) may speak twice.”

**B. Provisions allowing debate to continue only while there are members with alternative views**

Delete the current items (f) and (g) and substitute the following:

- (f) Other speakers against and for the motion in alternating order until there is no member (excluding the mover) wishing to speak who is of the opposite view than the last preceding speaker;
- (g) Mover takes right of reply which closes the debate;
- (h) No member (other than the mover who may elect to open debate and speak in reply) may speak twice.”

As the recently adopted Council objective of the Clause was to permit debate on a motion while there are speakers wishing to present any view, the wording assigned to sub-paragraph “A” above has been included in the revised Draft at Clause 10.6.

Should Council prefer the alternative interpretation to be inserted into the Standing Orders, the Draft will not be required to be submitted for public consultation in accordance with Sec 3.13 of the Local Government Act, 1995, as it is not a departure from the current understanding and practice adopted by Council.



**Strategic Plan/Policy Implications**

Key Result Area “Managing Your City” refers.

**Budget/Financial Implications**

Legal advertising and printing costs associated with statutory processes are available within Council’s “Governance” Budget.

**Legal Implications**

Sec 3.12 of the Local Government Act, 1995, refers. Legal opinion on Clause 10.6(f) attached.

**Community Consultation**

Statewide Public Notice provided for six week public submission period.

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

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM 18/01/2005) - PROPOSED (INITIATION) REZONING AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - LOT 8001 COCOS DRIVE, BIBRA LAKE - OWNER/APPLICANT: WHITE RIVER PTY LTD (4412800) (JB) (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 NO. 3

AMENDMENT NO. 23

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

1. rezoning Lot 8001, from Light and Service Industry to Industry, subject to the preparation of formal documentation and scheme amendment maps.

2. amending the Scheme Map accordingly.

Dated this..... day of ..... 2005

Chief Executive Officer

- (2) 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;
- (3) notwithstanding (2) 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 be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;
- (4) should formal advice be received 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 or not proceed with the Amendment;
- (5) advise the applicant of Council's decision.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Industrial
	TPS3:	Light and Service Industry
LAND USE:	Vacant Land	
LOT SIZE:	4.2083 Ha	

White River Pty Ltd previously applied in January 2001 to rezone the eastern portion of Cocos Park from Light Industry to General Industry. Council resolved to not support the proposed amendment because:-

- The rezoning of the Cocos Park to General Industry cannot be justified as it is too close to Yangebup residents;
- Council had originally intended that the whole of the Cocos Park to be Light Industry but the Minister of the time had only permitted Light Industry as an interface buffer;
- To remove any portion of the existing Light Industry buffer was unfair on both the Yangebup and Bibra Lake residents; and
- It was felt that the potential uses allowed in the General Industrial Zone were too diverse and as such Council could not justify allowing General Industrial uses so close to residents.

### **Submission**

The submission from White River Pty Ltd is attached.

In essence White River Pty Ltd indicate that:

- the Light Industrial area fronting Yangebup maintains an average separation distance of 170m with Lot 8001 being located outside this area;
- any potential externalities from the site are not negated due to the zoning of the land as any occupier of the site would need to comply with the existing regulations (Environmental Protection 'Noise' Regulations 1997);
- potential purchasers of future lots within Lot 8001, prefer the flexibility of the Industry Zone.

### **Report**

White River Pty Ltd proposes to rezone Lot 8001 from "Light and Service Industry" to "Industry", whilst still allowing the average buffer separation distance to be maintained between the Cocos Park Industry Zone and Yangebup residents.

Council has previously raised concerns over the range of permitted uses allowed in the General Industry Zone. It is noted that these concerns were raised when DZS No.2 was in operation. With the adoption of TPS No.3 Council has greater control over industrial development and the use of land in the Industry Zone by the inclusion of General Industry and General (licensed) Industry uses. If Council was to support the rezoning of this one Lot from Light and Service Industry to Industry the General (licensed) Industry provisions of TPS No.3 allows for Council to apply its discretion to uses that require licensing by the DEP and reduce any potential impacts on surrounding properties.

Reasons for support of rezoning:

1. The proposal is consistent and compatible with the surrounding landuses which are light and general industrial developments .
2. The closest residential property is approximately 188m away in Yangebup, which is comparable with existing industrial uses in Cocos Park.
3. The proposal represents a rationalisation of industrial boundaries and does not adversely affect the transitional development from Industry to Light and Service Industry as a buffer to the residential area of Yangebup.
4. The land is sufficient in size for subdivision into smaller industrial Lots (see attached).
5. The Light and Service Industry zoning limits the range of industrial uses which has contributed to the slow take-up of Lots for development in the area.
6. Council now has greater control over General (licensed) Industry uses in the Industry zone than under the former DZS No.2. Council can refuse industry uses if they require licensing by the DEP or are deemed to be incompatible.

Given this, it is suggested that Council support the extension of the Industry Zone into the eastern portion of Cocos Park (lot 8001) as per the attached plans.

### **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."*
3. 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."*

### **Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

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

Nil.

**14.2 (OCM 18/01/2005) - HOME BUSINESS - CHIROPRACTOR - 53 BARRINGTON STREET MUNSTER - OWNER/APPLICANT: THOMAS FRANCIS KENNEDY/IAN MESSANGER (3315267) (AB)**

**RECOMMENDATION**

That Council:

- (1) approve the proposed Home Business on Lot 680 (53) Barrington Street, Munster subject to the following conditions:

STANDARD CONDITIONS

1. The development complying with the Home Business provisions and definition set out in the Town Planning Scheme.
2. All materials and/or equipment used in relation to the Home Business shall be stored within the residence or an approved outbuilding.
3. The Home Business Approval may be withdrawn by the Council upon receipt of substantiated complaints.
4. The Home Business can only be undertaken by the owner of the land and is not transferable pursuant to clause 5.8.5 (a) (ii) of Town Planning Scheme No 3.
5. On the sale of the property or change in ownership of the land the home business entitlement ceases pursuant to clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.
6. The business must be carried out by the occupier of the dwelling, at all times.

SPECIAL CONDITIONS

7. A maximum of twenty (20) clients per day.

8. The applicant must ensure that there is at least a 10 minute interval between clients.
9. All clients must park on private property and not within Council verge or on Barrington Street or Marvell Avenue.

#### FOOTNOTES

1. If the number of clients exceeds twenty (20) per day, the applicant must relocate to a commercial premises.
2. A Home Business is defined in Town Planning Scheme No 3 as  
  
“..a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –  
  
*(a) does not employ more than 2 people not members of the occupier’s household;*  
*(b) will not cause injury to or adversely affect the amenity of the neighbourhood;*  
*(c) does not occupy an area greater than 50 square metres;*  
*(d) does not involve the retail sale, display or hire of goods of any nature;*  
*(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*  
*(f) does not involve the use of an essential service of greater capacity than normally required in the zone.*
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant accordingly; and
- (3) advise the complainant of Council’s decision.

#### **COUNCIL DECISION**

## Background

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	Residential	
LOT SIZE:	896m2	
AREA:	No more than 50 sqm	
USE CLASS:	Home Business 'A' use	

The background relevant to this proposal is:-

- The applicant proposes to operate a Chiropractic clinic from home at 53 Barrington Street, Munster. The applicant is required to obtain the City's approval in order to comply with a condition on the Contract of Sale to purchase the subject land.
- The applicant is presently operating at 3 King Street, Coogee. Council at its Meeting held on 20 November 2001 issued conditional approval for a Consulting Room (Chiropractor) at 3 King Street, Coogee restricting the approval to a maximum of 20 clients per day with 10 minute intervals. There are no complaints on file associated with this use.

## Submission

The proposal is to operate a chiropractic clinic from home:-

- With approximately 20 clients per day.
- Operating on Monday, Wednesday and Friday from 9:30am –12pm then 3:30pm-6:30pm and Tuesday from 3:30pm-6:30pm.
- No drugs, noise or any other pollution will emanate from the practice.
- The applicant will request the relocation of the bus shelter to facilitate a wider crossover and therefore parking is to be accommodated in the driveway after the rear gate is modified.

## Report

The proposal is acceptable from a planning point of view, however, an objection was received during the advertising of the application pursuant to clause 9.4 of Town Planning Scheme No 3.

The objection is on two grounds. The objector has stated that *“the area is residential and the parking may be overcrowded.”* In addition *“the traffic on the corner of Barrington Street and Marvell Avenue is severe at the moment. Additional traffic would be deleterious.”*

The Home Business if approved will maintain the residential appearance of the existing house and the parking area will facilitate the parking of two (2) vehicles at the most at any given time.

In regards to the traffic / intersection matter, the application has since been referred to Engineering Services for comment who advise that the potential increase in traffic flows at this intersection as a result of the home business (i.e. 20 vehicles per day) will have a minimal impact on the safety of the intersection. Further, that vehicles must not park on either the road or verge but solely within private property where there appears to be ample room for vehicular parking.

The relocation of the bus shelter is a separate matter which needs to be negotiated and discussed with the City's engineering services.

In respect to these matters it is recommended that the home business will not substantially impact on the amenity of the area in terms of traffic, noise and parking and therefore can be supported.

### **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."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*

The Planning Policies which apply to this item are:-

APD17      Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

The proposal was advertised in accordance with Clause 9.4 of Town Planning Scheme No. 3 for a period of 14 days. One (1) objection was received.

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

Nil



**14.3 (OCM 18/01/2005) - LAND MANAGEMENT STRATEGY 2005 - 2010 (4809) (SMH) (ATTACH)****RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the Land Management Strategy 2005 – 2010;
- (3) proceed with the development and sale of Council owned land, in accordance with the Land Management Strategy 2005 – 2010, consistent with the Principal Activities Plan revised from time to time; and
- (4) allocate all proceeds from the sale of land into the Land Development Reserve Fund.

**COUNCIL DECISION****Background**

The Council has identified a number community facilities needed in the community over the next 6 years.

To achieve the facilities proposed, it is necessary for the City to sell Council owned land as an important source of funding.

Council at its meeting held on 19<sup>th</sup> October 2004 considered the report and resolved that the item be deferred to a future Council meeting after it has been considered at a Concept Forum to be convened at a time to be determined by the Mayor.

A Concept Forum meeting was held on Wednesday 24<sup>th</sup> November 2004, at which the Director of Planning and Development gave a powerpoint presentation on the strategy to Elected Members, supported by the Director of Finance and Corporate Services and the City's Land Officer.

At the conclusion of the presentation, all Elected Members were requested to lodge any comments or submissions on the Land Management Strategy with the Director of Planning and Development by Friday 17<sup>th</sup> December 2004.

A copy of the Land Management Strategy powerpoint presentation was provided to each Elected Member.

### **Submission**

The Principal Activities Plan 2004/05 to 2007/08 forms the basis of the Land Management Strategy.

By the 17 December 2004, only one submission on the Land Management Strategy had been received, and this was from Cllr Oliver which is provided below together with the response from the Director of Planning and Development.

Cllr Oliver was unable to attend the Concept Forum.

Q1 *“ What would be the interest on borrowing for these projects against possible better prices for the land in the future.”*

A To borrow money for 10 years would cost about 6.25% in interest. Land prices could rise, but also they can fall as has been experienced in the Eastern States. The future can only be an informed guess by those active in the market place. To borrow money would be a Council decision.

Q2 *“ Do we have to develop the second stage of the Cockburn Youth Facilities so soon?”*

A The development of the Council youth facilities is a Council decision. It is only one development, but funded over 2 financial years.

Q3 *“ How much was spent on the Coolbellup Redevelopment as to the amount that is needed for Southwell”*

A Since 2000 the Council has contributed about \$341,000 to the Coolbellup redevelopment and according to the books there may be another \$117,000 yet to spend, but has not yet been claimed. At this stage we do not know what will be spent in Southwell. It is likely that the current level of expenditure will apply but spent in conjunction with the Dept of H.W. These figures only relate to capital works and not operating costs.

Q4 *“ Where is the School site PT Lot 21 situated and why is it compulsory for council acquisition?”*

A The settlement of the primary school on lot 621 in Yangebup is likely to be in February next year. As the school has been built on our land the Education Department must pay us for it.

Instead of compulsory acquisition we have negotiated a sale of the land based on the provisions of the Act.

Q5 *“ Why is the development of Coogee Reserve being brought forward before the Port Coogee Marina is finished?”*

A The development of Coogee Reserve is a Council decision that may be taken now that the public consultation has been completed. This will require Western Australian Planning Commission approvals prior to commencement. The redevelopment of the shop is being undertaken in accordance with a Council decision. The redevelopment of Coogee Beach can be undertaken separately from the Port Coogee Marina. They are independent of one another, in scale, location and timing. All that has been brought forward at this stage is the public consultation and the refurbishment of the shop.

Q6 *“ while I feel we need facilities for the Surf Club I feel it could be done on a smaller scale or cost most surf clubs grow in stages Poore Grove is this owned by Calm?”*

A The size and cost of the Surf Club is a matter for the surf club and the approval authorities. The Council is not an approval authority in a P and R reserve it only makes recommendations. This is a matter that you should raise at a Council meeting when the matter is further debated.

Q7 *“ And wouldn't we be able to get funding from Sports and Recreating, Lotterywest and other Local Industries?”*

A Poore Grove is on the CALM reserve. However, they are not supporting the surf club building being on part of its land or in the Council preferred location. If the club ends up in this location, then the building will need to be on a Council reserve so that we can lease it to the club. This has yet to be resolved as no approval for the club building has been issued by WAPC. Once this has been decided, then it may be possible for the club to find sources of funds, some of which could be the ones you have suggested.

Q8 *“ Do you think we need to sell all of this land? and would it be better to wait for more development and the prices to go up before the land is sold?”*

A The sale of land is a Council decision. This has yet to be considered by the Council and it would be appropriate at this time for you to raise these questions as part of the deliberations. The need to sell land is not based on the market, but driven solely by the need for the Council to raise funds to implement its programs or to build facilities without the need to raise rates or

to borrow money. If there is no need for the funds then the land holdings will be held and should appreciate in value as time goes by. This again is a matter that you should raise during the consideration of the Land Strategy by the Council.

Q9 *“ I personally would like to wait if the land prices could go up. Or buy more land for the future.”*

A At this stage the land strategy is being prepared in response to the possible sale of existing land holdings. It does not address the active purchase of land. Land is usually accumulated through opportunities that arise through surplus government land or through subdivision. This is also a matter that you could raise at an appropriate Council meeting.

The foregoing questions and answers have been provided so that any other Elected Member or member of the community who may have similar concerns the response provided to Cllr Oliver may be useful in understanding the purpose of and approach to the Land Management Strategy.

## **Report**

The Land Management Strategy 2005 – 2010 is attached to the Agenda, in support of the officer’s recommendation as provided.

The Land Management Strategy has been amended to effect the recommendations made in the Powerpoint presentation at the Concept Forum.

## **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *“To deliver services and to manage resources in a way that is cost effective without compromising quality.”*
  
3. Conserving and Improving Your Environment
  - *“To conserve the quality, extent and uniqueness of the natural environment that exists within the district.”*

## **Budget/Financial Implications**

The Land Management Strategy should form an integral part of the Principal Activities Plan and the deliberations of the Annual Budget.

### **Legal Implications**

The provisions of Section 3.59 of the Local Government Act apply to land transactions undertaken by the City.

### **Community Consultation**

No community consultation is required in regard to the consideration and adoption of a Land Management Strategy. However, the Strategy would, as part of the procedures associated with the publication and adoption of the Principal Activities Plan and the budget, be the subject of advertising and public scrutiny.

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

Nil

#### **14.4 (OCM 18/01/2005) - MODIFICATION TO STRUCTURE PLAN - LOT 446 LYON ROAD, AUBIN GROVE - OWNER/APPLICANT: PRIZELAND PTY LTD/ROBERTS DAY (9645E) (JLU) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) adopt the proposed modification to the Structure Plan for Lot 446 Lyon Road, Aubin Grove pursuant to clause 6.2.14.1 of the City of Cockburn Town Planning Scheme No.3, as shown on the Structure Plan included in the Agenda attachments;
- (2) advise the applicant of Council's decision;
- (3) refer the modified Structure Plan to the Western Australian Planning Commission for endorsement; and
- (4) upon receipt of the Western Australian Planning Commissions endorsement of the modified Structure Plan advise those who made submissions on the original Structure Plan of the decision.

##### **COUNCIL DECISION**

## Background

ZONING:	MRS:	Urban
	TPS:	Development Zone – DA11
LOT SIZE:	4.0469ha	

At its meeting on the 19 October 2004 Council considered the above Structure Plan and resolved the following:

- (1) *adopt the Structure Plan for Lot 446 Lyon Road, Aubin Grove subject to the applicant modifying the Structure Plan report and plan, to demonstrate how an R30 density will be achieved;*
- (2) *provide the applicant with the Water Corporation submission and further advise that nutrient management will be required as part of the subdivision drainage network;*
- (3) *adopt the officer's comments made on the Schedule of Submissions as contained in the Agenda attachment; and*
- (4) *advise those persons who made a submission of Council's decision and forward a copy of the Structure Plan (revised) to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning Scheme No. 3.*

## Submission

The City received a Structure Plan on the 28 July 2004 for Lot 446 Lyon Road, Aubin Grove from the Roberts Day Group on behalf of Prizeland Pty Ltd.

The proposed Structure Plan area is likely to yield approximately 49 lots, with 32 of these at a density of R20 (500m<sup>2</sup> average) and 17 at a density of R30 (300m<sup>2</sup> average). The Structure Plan also proposed a public open space (POS) area of 4,096m<sup>2</sup>, complying with the 10% POS requirement.

The Structure Plan is consistent with the Southern Suburbs District Structure Plan Stage 2 – Banjup adopted by Council at its meeting held on the 19 November 2003 (Item 14.21).

## Report

The above required modifications were made to the Structure Plan and it was referred to the Western Australian Planning Commission for endorsement on the 2 November 2004. The modified Structure Plan is contained in the Agenda attachments.

On the 13 December 2004 the Commission advised that it *“would be prepared to endorse the Structure Plan subject to the R30 coding being replaced with an R20 coding, reference to the potential for the laneway being removed and corresponding modifications being made to the text of the Structure Plan document (ie. “Lot Layout” – page 20)”*.

These modifications resulted from further investigations being carried out during the preparation of the subdivision application which determined that lots at a density of R30 could not be achieved in the area due to the topography and the need for excessive cut and fill.

Clause 6.2.10.2 of Council Town Planning Scheme No. 3 states that in relation to the endorsement of Structure Plans by the Commission that:-

*“6.2.10.2 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.”*

This clause does not allow for the Commission to require further modifications to the Plan. Therefore in order to ensure the modified Plan has followed the process outlined in the TPS it is required to be referred back to the Council for adoption. The modified Structure Plan is contained in the Agenda attachments.

### Conclusion

The proposed modifications are minor and will not impact on the development of the surrounding area. Given the minor nature of the changes the Structure Plan is not required to be readvertised and it is recommended that Council adopt the proposed modification to the Structure Plan for Lot 446 Lyon Road, Aubin Grove pursuant to clause 6.2.14.1 of the City of Cockburn Town Planning Scheme No.3, as shown on the Plan included in the Agenda attachments.

### **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 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.”*

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."*

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A as the changes are considered minor and will not impact on the surrounding area. The original Plan was referred out for public comment in accordance with the Town Planning Scheme. Eight submissions were received on the original Plan. The modified Plan does not have any impact on any of the issues previously raised.

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

Nil

**14.5 (OCM 18/01/2005) - LOCAL STRUCTURE PLAN LOTS 18 & 19 GAEBLER ROAD, AUBIN GROVE - OWNER/APPLICANT: KB LANG; SA PERIBONIO/KOLTASZ SMITH, ON BEHALF OF NICHOLSON ROAD DEVELOPMENT TRUST (9671) (CP) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Lots 18 and 19 Gaebler Road, Aubin Grove;
- (2) advise the applicant of the matters indicated in the summary of submissions as requiring advice to be provided to the applicant;
- (3) adopt the Schedule of Submissions as contained in the Agenda attachment;
- (4) advise those persons who made a submission of Council's decision; and
- (5) forward a copy of the Structure Plan and schedule of submissions to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning Scheme No. 3.



**COUNCIL DECISION****Background**

ZONING:	MRS:	Urban
	TPS3:	Development (DA11)
LAND USE:	Existing dwellings, outbuildings and undeveloped rural land.	
LOT SIZE:	4.4008ha	

The land is subject to Southern Suburbs District Structure Plan Stage 2 Banjup which was adopted by Council at its meeting held on 19 November 2002 (Item 14.21).

**Submission**

A local structure plan has been submitted by Koltasz Smith Town Planners affecting Lots 18 and 19 Gaebler Road, Aubin Grove (refer to Agenda attachments).

The proposed structure plan provides a framework for the subsequent subdivision and development of the land for uses including a proposed childcare centre, aged care facility and a retirement village.

Key elements of the structure plan include:

- Locating the Childcare Centre on the corner of Lyon and Gaebler Roads, with the Aged Care and Retirement Village sites abutting Gaebler Road;
- Residential zoning over the Aged Care and Retirement Village developments with a density coding of R40;
- Mixed Business/Commercial/Home Based Business zoning for the proposed child care centre site;
- The provision of land for public open space in the south-western corner of Lot 18;
- Vehicle access proposed to the land uses primarily from Gaebler Road.

The structure plan report states the developer of the intended uses will be an “approved provider” under the Aged Care Act, and outlines an innovative proposal to co-locate the aged-care and retirement village with the child care centre. The development land is situated adjacent a future neighbourhood centre located on the eastern side of Lyon Road, at the intersection of Gaebler Road and the proposed bus service in Lyon Road.

## Report

The structure plan was advertised for public comment in accordance with Town Planning Scheme requirements. At the close of the submission period (21 December 2004) four submissions had been received. Two late submissions were received. A summary of submissions is contained in the Agenda attachments.

The key points raised in submissions relate to:

- Location of the childcare centre site
- Traffic issues relating to the childcare facility.

These and other key issues are discussed in the following section.

### Public Open Space:

Land is proposed to be vested as public open space in the south western corner of Lot 18 Gaebler Road. The amount of land to vest is based upon 10% of the area of Lot 18 Gaebler Road and does not take into account land in Lot 19 Gaebler Road. This is because Lot 19 is being developed for the childcare centre and aged care facility, neither of which attract a POS requirement.

The location of the POS relates to incorporating existing established vegetation on the site in a manner that may be expanded to integrate with a larger area of POS across Gaebler Road to the south. This is consistent with the Southern Suburbs District Structure Plan – Stage 2.

### MARKET GARDEN BUFFER

Market gardening is currently being undertaken on the land to the south of Gaebler Road (Lot 10 Gaebler Road). This has implications for the development of the subject land if development timeframes overlap with the continuation of market gardening. Potential effects include impacts of spray drift on the proposed uses. In this instance, the market gardening and proposed land uses are separated by Gaebler Road itself, which provides at least a 20m buffer. In addition, other means of mitigating effects of spray drift include retaining existing intervening vegetation and /or erecting screen fencing as has been the solution in other similar situations.

An appropriate design response to this matter will be investigated during the detail design phase and reflected in the final proposal.

### LOCATION OF CHILDCARE CENTRE

As discussed earlier, a key principle behind the development is the co-location of the childcare centre land use with aged care and retirement

village. The proposed childcare centre site itself is a corner site opposite a future neighbourhood shopping centre.

In terms of site suitability, guidance is provided in Council Policy APD44 "Location of Childcare Centres within Residential Areas". Criteria are outlined that are designed to protect residential amenity, particularly in existing residential neighbourhoods, which relate to appearance, corner site issues and lot design. The proposed location of the childcare site in this instance concurs with the policy criteria and is therefore supported as an element of the structure plan.

## TRAFFIC ISSUES

Overall the proposed development is likely to produce lower traffic volumes than if the land had been subdivided for residential purposes.

Primary access for the development is off Gaebler Road which is suitable for this purpose given its low traffic volumes and its intersection with Lyon Road will have a roundabout to facilitate safe and convenient access. Secondary access being to the residential aged care centre and childcare centre is off Lyon Road.

Concern has been raised in the submissions about access to the child care centre and specifically about the potential traffic problems at the intersection of Lyon and Gaebler Road. Consideration of this matter by Council's Strategic Planners concluded that the proposed child care centre is unlikely to pose traffic problems for the following reasons:

- Traffic volumes on Lyon Road are relatively low (approx 4000 upd)
- Being a corner site access can be obtained off both Gaebler and Lyon Roads and internal circulation provided.
- Given the proposed roundabout at the intersection of Lyon and Gaebler Roads traffic speeds in the vicinity of the child care facility will be slow.
- The child care site has frontages of 60m to Lyon Road and 40m to Gaebler Road allowing acceptable separation between driveways and islands associated with the Gaebler/Lyon Road roundabout.
- There is an opportunity to jointly develop and share car parking with the adjoining residential aged care facility which wraps around the child care centre site. It is also possible to arrange shared access if the need arises.
- Vehicles will be accessing the abutting roads in a forward gear and have good visibility.
- Islands can be provided in Lyon Road to limit access to left in/left out only if required.

Notwithstanding that it is considered that safe and convenient access can be provided to the proposed child care facility, the proponents will be required to submit a traffic assessment as part of the detailed proposals for the site.

## DRAINAGE

Stormwater runoff on the land will need to be disposed of onsite. In addition, an outlet will be required to accommodate drainage for the 1 in 100 event. Final lot levels will need to be designed to comply with the requirements of the David Wills and Associates report ("Southern Suburbs Russell Road Arterial Drainage Scheme"), in terms of achieving sufficient vertical separation above groundwater levels. Options may include filling the land to the desired level or installing sub-surface drainage. These matters are usually considered in detail at the subdivision stage.

A developer contribution towards the cost of providing regional drainage infrastructure will be required as a condition of subdivision and/or development approval in accordance with proposed DCA No.7 which is the subject of Amendment No.17 to TPS No.3.

## FREEWAY NOISE

The western boundary of Lot 18 Gaebler Road abuts the Kwinana Freeway. There is therefore potential for the freeway noise to impact on future residents in the retirement village. To this extent, the City will recommend conditions of subdivision approval requiring acoustic treatment to address the noise issue. An acoustic treatment solution could be in the form of appropriately designed uniform fencing erected along the western boundary of the land.

## CONCLUSION

The proposed development is in accordance with the principles of the adopted Southern Suburbs District Structure Plan – Stage 2 Banjup and Council policies on Aged Persons Accommodation (APD12), Location of Childcare Centres in Residential Areas (APD44) and Liveable Neighbourhoods (SPD4).

The submissions lodged in response to the advertising of the Structure Plan have raised no issues which warrant changes to the submitted proposal albeit that some matters need to be further addressed at the detail design and approval stages. Accordingly, it is recommended that Council adopt the Structure Plan for Lots 18 and 19 Gaebler Road, Aubin Grove.

## **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 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."*
4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*

The Planning Policies which apply to this item are:-

SPD4	Liveable Neighbourhoods
APD12	Aged Persons Accommodation - Development Guidelines
APD44	Location of Childcare Centres within Residential Areas

**Budget/Financial Implications**

N/A

**Legal Implications**

Possibility of an appeal to the planning Tribunal and the need to defend the Council decision.

**Community Consultation**

Advertised for public comment in accordance with scheme requirements.

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

Nil.

**14.6 (OCM 18/01/2005) - RETROSPECTIVE PLANNING APPROVAL - RETAINING WALLS - 7 DALMATIA COURT, COOGEE, WA 6166 - OWNER/APPLICANT: TONI SURJAN/INES ANTOINETTE SURJAN (3318993) (MD) (ATTACH)**

**RECOMMENDATION**

That Council grant retrospective approval to existing over-height retaining walls with a reduced setback on Lot 233 (No. 7) Dalmatia Court, Coogee subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

**SPECIAL CONDITIONS**

4. Retaining walls being certified by a suitably qualified Structural Engineer to the satisfaction of the Council.
5. The surface finish of the retaining walls abutting the adjoining lot(s) to be of a clean finish to the satisfaction of Council.

**FOOTNOTES**

1. The development is to comply with the requirements of the Building Code of Australia.
2. The applicant is advised that the City is legally unable to issue a retrospective building licence for the retaining walls. Special Condition 4 simply ensures the retaining walls have been constructed to a suitable standard.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Development Area Residential R30
LAND USE:	Vacant	
LOT SIZE:	810m2	
AREA:	N/A	
USE CLASS:	Single (R-Code) House – “P” Use	

Council received written complaint regarding the height of the retaining walls constructed on the subject lot on the 15 September 2004. The

City then wrote to the landowner requesting that they seek retrospective approval for the retaining walls.

The owner subsequently lodged an application seeking retrospective approval for the retaining walls on the 25 October 2004.

## **Report**

### Residential Design Codes (the 'Codes')

In determining the application, Council is to have regard to the performance criteria under Clause 3.6.2 (P2) of the Codes, which states:

*“Retaining walls designed or setback to minimise the impact on adjoining properties”.*

The existing retaining wall would normally be required to be setback 3.3m from a common boundary under the Codes. Council subsequently referred the application to adjoining property owners for the reduced setback. One objection was received (see comments below).

The existing retaining wall is designed to minimise impact on the adjoining properties in that it is a limestone wall with a clean finish. It is considered the retaining wall meets the performance criteria of the Codes.

### Community Consultation

The application was referred to 3 adjoining landowners in accordance with Clause 9.4 of the City's Scheme. One letter of 'objection' and one letter of 'no objection' were received. The letter of objection raised the following concerns:-

1. The level of the block combined with the height of the boundary fence prevents a significant amount of solar access to objector's back yard.
2. The house proposed on the subject lot is a double storey house, which will result in a lack of privacy to objector's back yard.

The above concerns are addressed below:-

1. The objector abuts the south-west corner of the subject property. The height of the retaining wall above natural ground level at the south-west corner of the subject lot is between 0.85m and 1.2m. The total combined height of the existing retaining wall and a standard 1.8m fence at that location would be between 2.65m and 3m. A 3m high fence at the corner of the

property will not have any significant overshadowing implications on the objector's property and will comply with the requirements of the Codes for overshadowing.

2. The retaining wall only abuts the corner of the objector's property and will have minimal impact on the amenity of the objector's property.
3. A building licence has previously been issued for a house on the subject lot and the house is substantially commenced on-site. The house is two-storeys in height, however the house is built in the front portion of the subject property, approximately 17 metres from the objector's property. The house complies with the privacy setback requirements specified under the Codes.

### Conclusion

It is recommended Council grant retrospective approval to the existing retaining wall subject to conditions.

### **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."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
  - *"To conserve the character and historic value of the human and built environment."*

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Residential Design Codes of Western Australia



### Community Consultation

The application was advertised to 3 adjoining affected property owners in accordance with Clause 9.4 of the City's Town Planning Scheme No. 3.

One (1) letter of 'objection' and 1 letter of 'no objection' were received.

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

Nil

## 14.7 (OCM 18/01/2005) - AUSTRALIAN TECHNICAL COLLEGE - EXPRESSION OF INTEREST FOR ITS ESTABLISHMENT WITHIN THE CITY OF COCKBURN (9006) (SMH)

### RECOMMENDATION

That Council:

- (1) submit an Expression of Interest with the Department of Education, Science and Training for the establishment of an Australian Technical College within the district based on the City Officer's report; and
- (2) identify Cockburn Central as the location for the establishment of an Australian Technical College for the purposes of the Expression of Interest submission.

### COUNCIL DECISION

### Background

The Australian Government will establish 24 Australian Technical Colleges providing high quality tuition in both academic and vocational education for students in Years 11 and 12. The Technical Colleges will be located in regions of skills shortages; a large youth population; and a strong industry base.

The establishment of Australian Technical Colleges will revolutionise Australia's vocational education and training system and promote pride and excellence in the acquisition of trade skills.

These select high achievement Colleges will provide tuition for up to 7,200 students each year.

Students at the Colleges will be able to undertake academic, information technology and business courses. They will graduate from the Colleges with trade, entrepreneurial, and business skills with the capacity to be self employed in the future or to go on to further education and training.

Each Australian Technical College will be based on regional industry needs, local infrastructure, and current and future economic circumstances. Tenders will be sought from consortia of existing education institutions, including schools, TAFEs and universities, together with local and national industry. Colleges may be based on new or shared campuses of existing organisations or totally new institutions.

The first of these Colleges will begin accepting students in 2006. They will be linked to and endorsed by industry and run autonomously by principals who will be able to engage teaching staff on a performance pay basis.

Each College will specialise in a particular trade, but will offer at least four trades including:

- engineering (machinists, fabricators, toolmakers, welders sheet metal workers)
- automotive (mechanics, auto electricians, panel beaters, vehicle painters)
- construction (bricklayer, plumbers, carpenters)
- electrical (including refrigeration and power line)
- commercial cookery.

Tenders will be sought to establish Colleges in the following regions:

- NSW: the Hunter, the Illawarra, Queanbeyan, Port Macquarie, Lismore/Ballina, Dubbo, Gosford, Western Sydney
- Victoria: Geelong, Warrnambool, Eastern Melbourne, Sunshine, Bairnsdale/Sale, Bendigo
- Queensland: Townsville, Gladstone, North Brisbane, Gold Coast
- South Australia: Adelaide, Whyalla/Port Augusta
- Western Australia: Perth South, Pilbara
- Tasmania: Northern Tasmania
- Northern Territory: Darwin.

### **Submission**

Organisations, or groups of organisations, wishing to lodge an initial expression of interest in establishing an Australian Technical College are asked to do so by 18 February 2005.

This initial expression of interest should be only a short statement of intent briefly stating how the organisations would see an Australian Technical College operating within a particular region in accordance with the broad principles outlined above. The formal tender process will be undertaken early in 2005.

## **Report**

At the December Ordinary Meeting of Council Deputy Mayor Graham requested that Council Officers prepare a report to a future Council Meeting regarding whether Council should lodge an expression of interest with the Commonwealth Government for the establishment of an Australian Technical College within the district. It was later reported by the Deputy Mayor that expressions of interest close on 18 February 2005 and that this matter needed to be reported at the January 2005 Ordinary Meeting.

The opportunity exists for the Council to submit an expression of interest for the establishment of one of the 24 Australian Technical Colleges to be located within the district.

The Technical Colleges will be located in regions of skills shortages; a large youth population; and a strong industry base. Justification for the Technical College can be provided on the basis of existing industrial areas of Bibra Lake, Jandakot and Henderson and future regional industry occurring within the Hope Valley Wattleup Industrial Area.

In terms of youth population, the City of Cockburn 15-29 age groups are, on the whole, similar to the total Perth Region, but with the Region being slightly higher in the 15-24 groups and the City being slightly higher in the 25-29 group (ABS, 1996). In summary, the City comprises a higher than average proportion of younger people, and a lower than average proportion of mature and older citizens. Population growth within the district has also been increasing rapidly and is projected to grow from 75,000 (2004) to 115,000 (2026).

There is an arguable case for the establishment of an Australian Technical College within the district and it is recommended that the Council submit an expression of interest to the Department of Education, Science and Training accordingly.

## **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

**Legal Implications**

N/A

**Community Consultation**

N/A

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

Nil.

**14.8 (OCM 18/01/2005) - LOCAL STRUCTURE PLAN - LOTS 458 AND 23 RUSSELL ROAD, HAMMOND PARK - OWNER/APPLICANT: CHS PTY LTD; CITY OF COCKBURN/TAYLOR BURRELL BARNETT (9638F) (CP) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Lots 458 and 23 Russell Road, subject to the relocation of the temporary connector road on the north side of Russell Road to the eastern cul-de-sac within the structure plan area and provide a cul-de-sac treatment where the connector road was originally proposed;
- (2) advise the applicant that subdivision or development of the land within the noise buffer associated with the piggery on Lot 15 Lyon Road will not be permitted by Council until the piggery permanently ceases operation or written confirmation is provided from the Department of Environmental Protection that the buffer has been redefined such that it no longer affects Lot 458 Russell Road;
- (3) advise the applicant of the matters indicated in the summary of submissions as requiring advice to be provided to the applicant;
- (4) adopt the Schedule of Submissions as contained in the Agenda attachment;
- (5) advise those persons who made a submission of Council's decision; and
- (6) forward a copy of the Structure Plan and Schedule of

Submissions to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning Scheme No. 3.

## COUNCIL DECISION

### Background

ZONING:	MRS:	Urban
	TPS3:	Development (DA8 & DA9)
LAND USE:	Vacant undeveloped land	
LOT SIZE:	7.3126 ha in total	
AREA:	N/A	
USE CLASS:	N/A	

### Submission

A local structure plan has been submitted by Taylor Burrell Barnett Town Planners for Lots 458 & 23 Russell Road, Hammond Park (refer to Agenda attachments).

Lot 458 Hammond Road spans Russell Road to the north and south and contains an environmental feature (i.e. a dampland) that is fundamental to the structure plan design.

The proposed structure plan incorporates fee simple land owned by the City of Cockburn, which would otherwise be the only parcel in the area not covered by a local structure plan. Including Lot 23 Russell Road (0.3187ha) within this structure plan enables the land to be developed and sold for residential development.

Key elements of the structure plan include:

- Preserving the dampland core and providing a vegetated buffer around the core;
- Pockets of medium density Residential R40 on the north side of Russell Road;
- Residential R25 abutting the public open space with Residential R20 for the remainder of the land;
- The provision of land for public open space around the dampland and buffer;
- Incorporation of drainage in the public open space, including regional drainage infrastructure;
- Including land for the widening of Russell Road (north side);

- Temporary connector road on the north side of Russell Road which will also serve as a bus route; and
- A network of shared paths and footpaths providing connectivity within the structure plan area as well as with adjoining land.

## **Report**

The structure plan was advertised for public comment in accordance with Town Planning Scheme requirements. At the close of the submission period (21 December 2004) seven submissions had been received. One late submission was received. A summary of submissions is contained in the Agenda attachments.

The key point raised in submissions related to

- concern about the location of the temporary connector road to the north of Russell Road to the extent that this would provide a more direct route for traffic through Magnolia Gardens Estate between Hammond and Russell Roads.

This and other key issues are discussed in the following sections.

### **TEMPORARY CONNECTOR ROAD**

A submission received from Gold Estates, developers of Magnolia Gardens Estate to the north and east of Lot 458 Russell Road raised concerns about the more direct traffic route created by locating the temporary connector road on the western side of the structure plan area. Integral to the planning of Magnolia Gardens Estate was the issue regarding the location of temporary access to Russell Road for a bus route, until such time as the proposed park and ride facility is constructed on land near the railway station proposed to the east.

The adopted Magnolia Gardens Estate Structure Plan showed the temporary access to Russell Road through Lot 458 in a more central location. This location was agreed to after considerable discussion and negotiation with the landowners and DPI regarding both the temporary and permanent access points onto Russell Road.

It is considered there is no justification to depart from the previously agreed position on this matter. It is also noted that the change in location of the temporary connection will not necessitate any modifications to the subdivision design as the centrally located temporary access point will utilise a road way proposed in the design as shown on the plan included in the Agenda attachments.

### **PUBLIC OPEN SPACE**

The Public Open Space (“POS”) allocation has been based around preserving the environmental dampland located on the site.

Specifically, it is proposed to preserve the dampland core as well as provide a 30m buffer around the core in addition to satisfying the statutory 10% public open space requirement for Lot 458. A POS schedule is included in the structure plan report which details the allocation.

## DRAINAGE

It is also proposed to incorporate a portion of the regional drainage infrastructure in the POS, being a section of the arterial drain running between the proposed swales in the Western Power easement land to the south east of the site and the Russell Road buffer lake (Lake Copulup) to the north west. The drainage swales are shown on the Structure Plan.

It is proposed to incorporate elements of a natural creekline or “living stream” in the construction of the arterial drain through the POS. Depending on how the arterial drain is constructed, there may be POS credit implications if a section of the drain is left open as suggested in the report.

Drainage from the roads will be piped to swales in the POS with overflow into the arterial drain. A Nutrient removal and Management Plan, incorporating water sensitive design principles will be required as a condition of subdivision approval.

## PIGGERY BUFFER

The piggery operation on Lot 15 Lyon Road, Aubin Grove east of the Freeway is understood to be continuing for the time being, and as such the buffer surrounding the piggery partially affects Lot 458 Russell Road, south of Russell Road. Development of the land within the piggery buffer will not be supported by the City until such time as the piggery operation permanently ceases as is required for Development Area 9 Gaebler Road provisions set out in Schedule 11 of TPS No. 3 (Part 5).

## UNIFORM FENCING

Uniform fencing is proposed along the lot boundaries abutting Russell Road. This will have an effect of attenuating traffic noise from Russell Road, but should be designed to an appropriate acoustic standard. This will be made a requirement of recommended subdivision conditions. This is particularly important given Russell Road is a designated freight route and will carry large volumes of trucks generating high noise levels.

Uniform fencing is also proposed along the interface of the POS and adjoining residential lots. Again, this will be addressed in detail at the subdivision stage.

## CONCLUSION

The only major issue raised in submissions lodged in respect of the advertised Structure Plan for Lots 458 and 23 Russell Road related to the position of the temporary connection point to on the north side of Russell Road.

Having reviewed the issue and having regard to past discussions and negotiations with the owners and DPI in regard to the adopted Structure Plan for Magnolia Gardens Estate which abuts Lot 458, it is recommended that Council support the submitted Structure Plan subject to the repositioning of the temporary connection to Russell Road. This would be effected by utilising the shorter eastern cul-de-sac shown on the subdivision design as opposed to the western cul-de-sac shown on the submitted Structure Plan.

### **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 development will enhance the levels of amenity currently enjoyed by the community."*
3. 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:-

SPD1	Bushland Conservation Policy
SPD5	Wetland Conservation Policy
APD4	Public Open Space
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and / or Drainage Areas
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans
APD34	Uniform Fencing Subdivision And Development



**Budget/Financial Implications**

N/A

**Legal Implications**

Possibility of an appeal to the planning Tribunal and the need to defend the Council decision.

**Community Consultation**

Advertised for public comment in accordance with scheme requirements.

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

Nil

**14.9 (OCM 18/01/2005) - RECREATION FACILITIES - RESERVE NO. 7756 HAMMOND ROAD, SUCCESS - OWNER: CITY OF COCKBURN (4621) (JLU) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report; and
- (2) adopt the draft Structure Plan for the purpose of public consultation and advertising for a period of four weeks.

**COUNCIL DECISION****Background**

At its meeting on the 15 June 2004 (Item 17.1) Council considered a report for the development of Reserve 7756 Hammond Road and resolved the following:

*“That Council supports the development of Reserve 7756 on Hammond Road to incorporate 24 hard courts, clubrooms, community facilities and active grassed areas as detailed in the consultant’s report as the preferred option and require the development of a concept plan*

*for the site and buildings with cost estimates for future consideration by Council.”*

This resolution resulted from a Y.M.C.A Perth report that identified the need for 12 specific tennis courts, 8 specific netball courts and 4 marked for a number of sports, a grassed area to accommodate Australian Rules Football and/or Soccer and clubrooms.

## **Report**

Council’s Strategic Planning Services has been working closely with Community Services to produce a Structure Plan that incorporates the above sporting requirements. Given the significance of the facilities to be provided on the Reserve and the financial contributions to be made Council Officer’s believe that the Structure Plan should be formally processed through the Town Planning Scheme.

The Reserve also contains a Conservation Category Sumpland in the south-eastern corner which has been accommodated along with a 50m buffer. The Agenda attachments contain the proposed Structure Plan for the Reserve.

When preparing the plan the following was taken into consideration:

- Grassed Area – Large grassed area be included to accommodate not only Soccer and Australian Rules Football but a number of other sports. The Structure Plan shows how a full and junior size football oval can be accommodated on the site, along with four softball diamonds two senior and one junior soccer ovals (all pitch sizes shown on the plan include out-of-play areas);
- Conservation Category Sumpland – The Structure Plan shows the retention of the Conservation Category Sumpland located in the south-western corner of the Reserve. Previously Council Environmental Services assessed this Sumpland which defined the extent of the wetland area. The Structure Plan shows a 50m buffer from the wetland dependent vegetation surrounding the Sumpland. Some minimal encroachment into this buffer has occurred on the northern and eastern sides to allow for the fields whilst significantly more buffer has been provided on the western side. The 50m buffer will be enhanced and revegetated to accommodate these encroachments;
- Proposed Primary School to the South – A proposed primary school will be constructed to the south of the site (within Magnolia Gardens) sometime in the future. At this stage the Department of Education cannot determine when this school is needed but it has been estimated that it maybe 5 to 7 years off or longer and will depend on the development of the catchment for the school. The proposed Structure Plan takes into consideration that if this school

was not built for some time or not at all that the land required for the grassed fields on that site would not exceed the 10% POS requirement if the proposed primary school site was subdivided for housing. The school site is also only 3.5ha and 2.5ha is required for school buildings. The Structure Plan shows only minimal encroachment onto the school site and will not impact on the future location of the school buildings;

- Shop – A small shop/deli has been shown on the Structure Plan located at the corner of Hammond Road and the new access road into Reserve 7756. In September 2004 Council resolved to rezone Lot 858 Banning Avenue (corner of Bartram and Hammond Road) from 'Local Centre' to 'Residential – R20'. A small shop is located at the Jandakot Caravan Park to the north and a neighbourhood centre is proposed as part of the Frankland Springs development on Russell Road to the south. The proposed shop/deli shown on the Structure Plan would not only benefit from the passing traffic on Hammond Road and provide the local community with its daily needs but also from the users of the sporting fields on the Reserve.
- Skate Park – The Structure Plan shows a location for a future skate park if required in the area. The location of the skate park is ideal given its visibility from Hammond Road and the Success Fire Station. The park is also some considerable distance from future residential development;
- Parking and Drainage – The Structure Plan shows 5 main car parks containing approximately 465 spaces in total. A large open drainage swale currently runs east-west across the reserve carrying stormwater run off from the surrounding residential developments. This drainage swale will be required to be relocated in part to ensure maximum use of the site for recreation activities. The cost of relocating this swale is unknown at this stage as detailed engineering information needs to be collected. This information should also include the likely drainage implications from the development of the Reserve and the most appropriate way to dispose of this drainage.

As indicated in the report considered by Council in June 2004 the Department of Sport and Recreation and the respective State Sport Associations were canvassed on the proposal. The Department of Sport and Recreation was supportive of the proposal as were the tennis, netball and football associations. Their support is important given the cost of the facilities to be located on the Reserve and the need to seek external funding towards to cost of the construction of the facilities.

Costings for the works shown in the Structure Plan are currently being prepared and will be presented to Council together with a report on submissions lodged during the advertising period.

## Conclusion

Given the significance and cost of the facilities to be located on the Reserve it is recommended that the Structure Plan be advertised for public comment for a period of four weeks. Stakeholders would also be provided a copy of the plan and requested to comment. Following the advertising period the Structure Plan would be referred back to Council for further consideration.

## **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost effective without compromising quality."*
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 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 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 parks which are owned or vested in the Council, in accordance with recognised standards and convenient and safe for public use."*

- *"To construct and maintain community buildings which are owned or managed by the Council, to meet community needs."*

The Council Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD2	Community Facilities Infrastructure - 10 Year Forward Plan
SPD5	Wetland Conservation Policy
APD20	Design Principles for incorporating Natural Management Areas including Wetlands And Bushlands in Open Space and/or Drainage Areas
APD26	Control Measures for Protecting Water Resources in receiving Environments

### **Budget/Financial Implications**

Costings for the works shown in the Structure Plan are currently being prepared and will be presented to Council together with a report on submissions lodged during the advertising period. Construction of the facilities is proposed to be staged over the period 2007/08 to 2010/11 depending on availability of funds.

### **Legal Implications**

N/A

### **Community Consultation**

The Plan is proposed to be advertise for public comment for a four week period. Relevant stakeholders would also be requested to comment on the Plan during this period.

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

Nil

## **14.10 (OCM 18/01/2005) - EXPENDITURE OF PUBLIC OPEN SPACE CASH-IN-LIEU MONIES IN THE CITY OF COCKBURN - OWNER: CITY OF COCKBURN (9477) (JLU) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the proposed strategy for the expenditure of Public Open Space Cash-in-Lieu monies;

- (3) forward the strategy to the Western Australian Planning Commission for consideration and recommendation to the Minister for Planning and Infrastructure; and
- (4) subject to the approval of the Minister, proceed with the implementation of the Public Open Space Cash-in-Lieu expenditure strategy.

## COUNCIL DECISION

### Background

At its meeting on the 19 October 2004 Council considered an item for the proposed expenditure of Public Open Space (POS) cash-in-lieu monies throughout the City. At this meeting Council resolved:

- (1) *receive a full briefing and workshop/tour of the widespread projects listed in the attachments;*
- (2) *also consider the purchase of additional Public Open Space as part of the opportunities available; and*
- (3) *investigate the possibility of using CSRFF funds for the construction of the Atwell Changerooms; and*
- (4) *defer consideration of this item until (1), (2), and (3) have been achieved.*

### Submission

A briefing and workshop was held on the 24 November 2004. The presentation from the workshop was distributed to all Elected Members for comment and feedback by the 17 December 2004. One request was received from Councillor Allen as follows:

*“Can we also add to Coogee an amount for additional bins along Coogee Beach and also an allocation to the “Friends of Coogee Beach” for dune restoration?”*

### Report

Council’s Environmental Services and Parks Services have considered Councillor Allen’s proposal and the following information is provided:

The Coogee area POS cash-in-lieu account currently holds \$624,107.30, \$506,024.00 worth of projects was designated leaving \$118,083.33 in the account;

Council's Parks Services advise that there are 10 existing plastic bins along Coogee Beach. It is proposed to replace all these bins and an additional two steel bins be placed at the Beach. Parks have advised that the existing plastic bins will be replaced with steel bins at a cost of \$4,800 (including the two additional bins);

With regards to money being allocated to the Friends of Coogee Beach for dune restoration the following table proposes \$12,844 being allocated to the Friends Group over three years and a further \$100,467 (over three years) being allocated to restoration of the remainder of the dune by contractors (on behalf of Council's Environmental Services).

Year	Friends Group *			Council (contract)				
	2005	2006	2007	2005	2006	2007		
N° of plants	700	700	700	3000	4000	5500		
Weed control	\$500	\$775	\$1,201	\$2,143	\$4,071	\$7,914		
Cost of plants	\$662	\$695	\$730	\$2,838	\$3,974	\$5,724		
Planting cost				\$5,400	\$7,560	\$10,890		
Stakes, guards, etc	\$385	\$404	\$424	\$1,650	\$2,310	\$3,328		
Watering cost	\$1,925	\$2,021	\$2,122	\$8,250	\$11,550	\$16,638		
Maintenance cost	\$329	\$345	\$363	\$1,410	\$1,974	\$2,844		
	=====	=====	=====	=====	=====	=====		
	\$3,801	\$4,241	\$4,841	<b>\$12,884</b>	\$21,691	\$31,439	\$47,337	
				=====	=====	=====		
				<b>Running Total</b>	\$12,884	\$34,575	\$66,014	\$113,351

\* - Assumes Friends plant 700 plants per year

The sum of \$118,151 (being \$113,351 of rehabilitation works and \$4,800 for new bins) of further projects requested by Councillor Allen can be accommodated for from the Coogee Beach account and \$67.67 being drawn from the general funds account (i.e. \$118,083.33 + \$67.67 = \$118,151).

With regards to points (2) and (3) of the resolution above the following comments are made:

Purchase of additional POS – The purchase of additional POS in the City would normally be considered as part of the Structure Plan process and be within the areas that money is still available or has been collected from. The purchase of this land would require the approval of the Minister for Planning.

CSRFF funding opportunities – CSRFF funding could be sought for the extension to the Atwell Change Rooms however the next round of funding closes at the end of October 2005 and if the City was successful the money would not be available until the 2006/2007 financial year. Generally funds sought through CSRFF are of significant amounts and it is recommended that other projects be given priority over the extensions to the Change Rooms for funding from this source.

It was also questioned at the workshop whether the proposals put forward addressed any of the sections of the Cockburn Community Development Strategy? It is difficult to determine if the proposals put forward in the cash-in-lieu expenditure address the Cockburn Community Development Strategy given the complexity and size of the Strategy. The Strategy comprises mainly general comments with few specific proposals outlined.

The following general comments are made comparing the Development Strategy with the cash-in-lieu proposals:-

Most comments contained in the Strategy relating to parks and ovals within the City are positive. There are some suggestions for swings, basketball rings and skate parks being requested, however, it is difficult to determine exactly where these facilities are required due to the vagueness of the comments from the Strategy. Most other comments relate to the maintenance of the wetlands, water features and general park areas. These activities cannot be covered by the cash in lieu funds.

There are a number of suggestions to include bins within POS areas. Council's Parks and Waste Services have advised that Council doesn't generally install bins unless there is a demonstrated need for them. Bins within POS are difficult to access and local residents are encouraged to take rubbish home with them. The bins also tend to be used for over flow of household rubbish. The inclusion of bins as part of the works will be considered on an individual basis;

A common theme throughout the Strategy is the request for more pathways and better disabled access. Council Officers along with a consultant are currently reviewing the Cockburn Bike Plan. This Plan will be used to upgrade and provide new bike paths and facilities throughout the City over the next five years or so. Funding of these projects could be taken from the cash-in-lieu funds however it is



recommended that other sources be found for such projects where possible;

There are a number of suggestions for BBQ's and toilet facilities within the larger parks throughout the City. Whilst such facilities could be funded through the cash-in-lieu funds they would be costly to maintain in the long term.

Generally the proposals contained in the proposed expenditure are consistent with the comments and intent of the Cockburn Community Development Strategy.

At the workshop on the 24 November 2004, Mayor Lee questioned Proposal No. 8c in the Spearwood area. This proposal related to earthworks and landscaping to create an amphitheatre, instillation of seating and construction of paths within Smart Park. Council's Parks Services have reviewed this proposal and recommend that it be modified to include earthworks for steps, paths and security lighting. The cost of this works will remain at \$44,622.45.

Since the October Council meeting and workshop some minor modifications have been made to the breakdown of the expenditure of the monies. These changes relate to the full expenditure of the money within the Munster proposal to allow for the erection of new light towers at Santich Park and the Coogee Beach works mentioned above. The following table provides the reviewed breakdown:

Area	Amount available	Expenditure		Balance
		Amount spent on works	Amount to be held for the purchase of POS	Balance to be held for future works in the area
Hamilton Hill	28,658.05	28,658.05	0	0
Coogee	624,107.30	624,107.30	0	0
Munster	62,844.21	62,844.21	0	0
Yangebup	26,094.00	14,094.00	12,000.00	0
St Paul's Estate	42,390.00	42,390.00	0	0
Bibra Lake	375.00	375.00	0	0
South Lake	226,091.50	46,180.00	179,911.50	0
Spearwood	155,622.45	155,622.45	0	0
Jandakot	83,500.00	83,500.00	0	0
Atwell	227,033.00	227,033.00	0	0
Beeliar	16,500.00	16,500.00	0	0
Hammond Park	700.00	700.00	0	0
General funds	104,712.77	33,144.67	0	71,568.10
<b>Total</b>	<b>1,598,628.28</b>	<b>1,335,148.68</b>	<b>191,911.50</b>	<b>71,568.10</b>

A total of \$1,527,060 will be spent over three financial years from the cash-in-lieu accounts (as some projects will be carried out over a number of financial years). This includes \$191,911.50 for the purchase of additional POS.

An amount of \$71,568 will remain in the cash-in-lieu account for future expenditure.

It is proposed that the works be carried out over three financial years as follows:

Department	Financial Years			Total \$
	Year 1 \$	Year 2 \$	Year 3 \$	
Parks	378,233.05	148,024.21	107,216.45	633,473.66
Engineering (includes Facilities Management and Roads)	144,800.00	181,500.00	0.00	326,300.00
Environment	25,492.00	157,420.00	92,462.00	275,374.00
Planning	40,000.00	179,911.50	12,000.00	231,911.50
Social Services	60,000.00	0.00	0.00	60,000.00
<b>Total</b>	<b>648,525.05</b>	<b>666,855.71</b>	<b>211,678.45</b>	<b>1,527,059.16</b>

Given that the actions required by Council's resolution of the 19 October 2004 have been carried out and no further comments were forthcoming on the proposals it is recommended that Council endorse the schedule of works that are proposed to be undertaken with funds from the public open space account (as shown in the attachments) and submit the proposals to the Western Australian Planning Commission and the Minister for Planning for approval.

Receiving approval from the Minister may take up to six months. Following the Minister for Planning's approval of the proposed expenditure of cash-in-lieu funds, the timeframe for the works program will need to be reviewed. Therefore, the attached program is to be treated as indicative of the time allocated for each of the proposed works.

### **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 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."*
2. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
3. 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 recreation areas to be provided within the district to meet the needs of all age groups within the community."*
4. Maintaining Your Community Facilities
- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and convenient and safe for public use."*

The Council Policies which apply to this item are:-

SPD2            COMMUNITY FACILITIES INFRASTRUCTURE - 10  
                     YEAR FORWARD PLAN  
 APD4            PUBLIC OPEN SPACE

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

The total funds available in the POS account is \$1,598,628.28. The proposals put forward in this agenda item total \$1,527,060 leaving \$71,568 in the POS Cash-in-Lieu account for future.

The proposal is to expend the funds in the trust account over the next 4 years (ie. 2005-2008 inclusive)

Before the Council can spend money from the account it is necessary to have the approval of the Hon. Minister for Planning and Infrastructure. Once the approval is received, the Council will have to approve the transfer of the funds into municipal funds so it can be accessed for its approved purpose.

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A. However, a comparison with the Cockburn Community Development Strategy was carried out in order to identify comments, priorities and specific projects, that could be addressed in the POS Cash-in-lieu strategy.

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

Nil

**14.11 (OCM 18/01/2005) - MEDICAL CENTRE, PHARMACY AND OFFICE -  
6 BARRINGTON STREET, SPEARWOOD, WA 6163 -  
OWNER/APPLICANT: CARCIONE NOMINEES/HOLTON CONNOR  
ARCHITECTS (3316863) (MR) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant its approval to the proposed Medical Centre, Pharmacy and Professional Office on Lot 852 (No 6) Barrington Street, Spearwood, in accordance with the approved plan subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. This approval relates to the revised attached plan dated 31 December 2004.
4. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting".
5. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
6. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
7. A plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the Council as a separate application. The application (including detailed plans) and appropriate fee for a sign licence must be submitted to the Council prior to the erection of any signage on the site/building.
8. Notwithstanding the detailed specifications required to be submitted for a Building Licence approval, a separate

schedule of the colour and texture of the building materials shall be submitted and approved to the satisfaction of the Council prior to applying for a Building Licence, and before the commencement or carrying out of any work or use authorised by this approval.

9. Landscaping and tree planting to be undertaken in accordance with the approved plan prior to the occupation of the site.
10. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council.
11. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved, by the Council
12. No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless the wall, fence or landscaping is constructed with a 3 metre truncation, as depicted on the approved plan.
13. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the Council in the event that sand or dust is blown from the site.
14. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
15. A minimum of 2 disabled carbays designed in accordance with Australian Standard 2890.1 - 1993 is to be provided in a location convenient to, and connected to a continuous accessible path to, the main entrance of the building or facility. Design and signage of the bay(s) and path(s) is to be in accordance with Australian Standard 1428.1 - 1993. Detailed plans and specifications illustrating the means of compliance with this condition are to be submitted in conjunction with the Building Licence application.
16. Works depicted on the approved parking plan shall be maintained to the satisfaction of the Council.
17. The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing

Engineer to the satisfaction of the Council.

18. Access onto the site shall be restricted to that shown on the plan approved by the Council.
19. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the Council.
20. Carbay grades are not to exceed 6% and disabled carbays are to have a maximum grade 2.5%.
21. The provision of bicycle parking facilities in accordance with the approved plans is to be provided in the locations marked on the attached plans, and are to be installed prior to the development being occupied.
22. Refuse bins shall be provided adequate to service the development and the bins are to be screened from view to the satisfaction of the Council before the development is occupied or used.
23. Potential occupiers must seek approval from the Council for their proposed use prior to occupying and commencing the business operation.
24. Landscaping is to be undertaken in the street verge adjacent to the Lot(s) in accordance with the approved plans and be established prior to the occupation of the building, and thereafter maintained to the Council's satisfaction.

#### SPECIAL CONDITIONS

25. Tenancy 1 to 6 must only be occupied, as medical suites and each tenancy is limited to a maximum of 2 Health Consultants at any time.
26. Tenancy 7 must only be used for a Pharmacy and Tenancy 8 used as an Office.
27. No commercial vehicles servicing the adjoining shopping centre are permitted to use the vehicular access at any time.

28. The glazing to first floor windows facing east and west must be partially obscure to a minimum height of 1.8m above the first floor finished floor level in accordance with the revised plans.
29. The undercroft car park must be secured after-hours to prevent unauthorised entry.
30. The façade being modified to include provision for specific locations for signage of tenancies.
31. All mechanical plant and equipment must be screened from view of adjoining properties and Barrington Street. The location of plant and equipment must also minimise the impact of noise being received by neighbouring residents.
32. The proponent entering into an agreement with the Cockburn City Council to provide for an easement for the purpose of securing vehicular access between Lot 852 and Lot 851. The agreement is to be prepared by Council's solicitors at the cost of the applicant.

Conditions to be completed prior to applying for Building Licence

33. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer and designed on the basis of a 1:10 year storm event.
34. A landscape plan must be submitted to the Council and approved, prior to applying for building licence and shall include the following:-
  - (1) the location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;
  - (2) any lawns to be established;
  - (3) any natural landscape areas to be retained;
  - (4) those areas to be reticulated or irrigated; and verge treatments.

#### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.

- 2. The development must comply with the *Environmental Protection (Noise) Regulation 1997*.
- (2) Issue a Schedule 9 – Notice of Determination of Application for Planning Approval – Approval (inclusive of MRS Form 2 Approval).

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Local Centre
LAND USE:	Vacant – (former Indoor Swimming Pool)	
LOT SIZE:	2757m <sup>2</sup>	
AREA:	Approx 1420 m <sup>2</sup> gfa	
USE CLASS:	Medical Centre & Shop – Permitted ‘P’ and Office – Discretionary Use ‘D’	

Council previously refused to grant approval to a service access driveway from Barrington Street along the eastern side boundary of the subject property to service the adjoining shopping centre.

**Submission**

The proponent seeks Council approval to construct a medical centre that includes undercroft car parking and a ground floor pharmacy and office suite.

The same proponent owns the adjoining Spearwood Shopping Centre/Tavern site and it is intended that access to the upper level of the new development be directly from the adjoining site car park, which is at the same level. Tavern patrons almost exclusively use that car park at night.

A total of 61 new bays are to be provided with the possibility of a reciprocal parking agreement with the adjoining site being considered if required.

**Report**

The proponent was uncertain of the final tenancy mix but this can only be determined on the basis of the TPS3 car parking requirements. It is



recommended that the ground floor units only be used for the purpose of a pharmacy and an office and the first floor occupied by medical suites that are limited to a maximum of 2 practitioners only, which is more in line with the actual parking requirements. There is no capacity to consider reciprocal car parking agreements with the adjoining shopping centre land given that a parking reduction has already been permitted to enable the expansion of the Action supermarket now complete.

The proposed development was advertised for public comment for 14 days. The City notified surrounding landowners of the proposal in writing. At the close of the submission period were 6 submissions were received. Of these 2 submissions raised the following objections:-

Objection from No 12 Barrington Street (eastern side of lot):

- The proposal is a substantial development adjacent to our house and seek assurance of a continued quiet enjoyment is maintained and protected from air conditioners and vehicle traffic.
- The above objection is withdrawn if privacy is protected regarding the glazing facing the adjoining property.

Objection from JT Fabrications – owner and developer of residential units on 448 Rockingham Rd cnr Barrington Street.

- The proposal would reduce levels of privacy and security for future residents on the adjoining block;
- Objection is based on the height and positioning of windows on the west side of the proposed development which will interfere with the privacy of residents;
- Also concerned about the exit on the rear elevation, which will allow a number of people to overlook the residential properties and will become a privacy and security risk.

The applicant has agreed to install obscure glassing to windows and only have non-obscure glazing to high-level windows above. This will protect the privacy of the existing and future adjoining residents.

The applicant indicated the rear stairs are needed for emergency fire escape purposes as follows:-

*“The egress at the upper floor is via fire-isolated stairs toward Barrington Street and via the entry doors facing the shopping centre car park. As escape is not permitted across site boundaries the applicant has indicated an exit along the “front” of the upper level via a 4.5 metre setback. The windows facing the escape route would be sprinkled from inside to protect the escape route from the fire source should the building be on fire.”*

Customer access from the undercroft parking area is via an internal stair and lift at ground floor level. Shoppers can also access the centre directly from the first floor entrance facing the shopping centre. The external stair is essential for emergency purposes and is unlikely to be used for any other purpose.

One of the benefits of the proposal apart from the improved level of medical services is the ability to improve access and egress to the adjoining Spearwood Shopping Centre by linking with Barrington Street. This will help to reduce the usage pressure on the two existing crossovers of the shopping centre site onto Rockingham Road. It is recommended that a vehicle access easement be provided as a condition of approval.

A series of design changes have been made by the applicant in consultation with City Officers to improve the façade and address issues outlined in this report.

There are no objections to the proposed development proceeding subject to conditions outlined in the report recommendations.

### **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."*
  
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."*

The Planning Policies which apply to this item are:-

APD17          Standard Development Conditions and Footnotes

**Budget/Financial Implications**

N/A

**Legal Implications**

Town Planning Scheme No 3

**Community Consultation**

Community consultation was carried out in accordance with clause 9.4 of TPS3. Details of the submissions received are examined in the report.

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

Nil

**14.12 (OCM 18/01/2005) - PROPOSED STRUCTURE PLAN - LOT 9 HAMMOND ROAD, SUCCESS - APPLICANT: KOLTASZ SMITH (9656B) (JLU) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Lot 9 Hammond Road, Success and advise the applicant that:
1. A Drainage and Nutrient Management Plan will be required at the time of subdivision;
  2. The road reservation for the loop road is to be increased to 15m;
  3. The north-south road and public open space is to be in alignment with Lot 8 Hammond Road to the north;
  4. A school site liability contribution required by the Department for Education and Training will be applicable at the time of subdivision;
  5. Council will review Development Contribution Area No. 1 to include the construction of a four lane roundabout at the intersection of Carmel Way, the proposed subdivision entry road and Hammond Road; and
  6. The Structure Plan Report to be modified to include information on the road reservations and the reviewed drainage system.

- (2) adopt the Schedule of Submissions as contained in the Agenda attachment; and
- (3) advise those persons who made a submission of Council's decision and forward a copy of the Structure Plan (revised) and Schedule of Submissions to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of Town Planning Scheme No. 3.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS:	Development
LAND USE:	Nursery	
LOT SIZE:	2.0462ha	

A Structure Plan was prepared and approved for Lot 8 Hammond Road (directly to the north) on the 17 June 2003, which shows indicatively the future development of Lot 9. However this Plan did not show lot densities for Lot 9 Hammond Road. See the Agenda attachments for the approved Structure Plan for Lot 8 Hammond Road. Council adopted the Structure Plan for Lot 8 Hammond Road at its meeting on the 20 August 2003 (Item 14.8)

**Submission**

The City received a Structure Plan on the 3 November 2004 for Lot 9 Hammond Road, Success from Koltasz Smith on behalf of Maincity Investments Pty Ltd. A locality plan and the Structure Plan are shown in the Agenda Attachments.

The proposed Structure Plan area is likely to yield approximately 24 lots, with 18 of these at a density of R20 (500m<sup>2</sup> average) and six (6) at a density of R25 (350m<sup>2</sup> average). The Structure Plan also proposes a public open space (POS) area of 2,255m<sup>2</sup>, slightly exceeding the 10% POS requirement.

**Report**

The Plan was advertised from the 23 November 2004 to 13 December 2004. Five submissions were received during the advertising period, two of these being objections. A Schedule of Submissions is contained

in the Agenda attachments. All issues raised in the submissions have been dealt with in the Schedule of Submissions and this report.

The main issues raised through the objections and by Council Officers are as follows:

### Road Access

During assessment of the Structure Plan for Lot 8 Hammond Road, Council Officers identified that a number of lots gaining access from Branch Circus are severely affected by wetlands and associated buffers. As a result, in February 2004 Council officers wrote to the Department for Planning and Infrastructure (DPI) requesting a number of lots be included in the Beeliar Regional Park (see Agenda Attachments). A response was received on this proposal recently, which indicates that the DPI are not willing to include the properties shown in the Attachment within the Regional Park. This is not considered acceptable by the Officers and will be pursued further in the new year. If approval can be obtained to include these lots within the Regional Park it is likely that Branch Circus would be closed to vehicle traffic but a dual use path could be retained.

The Structure Plan for Lot 9 allows for access into those lots which have development potential currently obtaining access from Branch Circus. As a result of the future traffic generated from the development of Lot 9 and those lots to the west and the Jandakot Primary School on the eastern side of Hammond Road, a roundabout at Hammond Road will be required to provide access into the area and allow for easy traffic movement. The current Development Contributions for Hammond Road do not include the construction of a four lane roundabout at this intersection and therefore it is recommended that these costs be included in Development Contribution Area No.1 as the roundabout will benefit not only Lot 9 and the balance of the land west of Hammond Road but also the Primary School and act as a traffic calming device on Hammond Road. The Structure Plan contains a notification stating that "the proposed roundabout timing and responsibility of cost and construction to be determined".

The applicant has advised that the following internal road reserves are proposed:

- 14m wide reserve for the loop road – this width is inconsistent with Council policy which requires roads to be 15m wide. The applicant is to be advised that this road is to be increased to 15m;
- 14m wide reserve for the north-south road abutting the public open space (POS) – Council policy allows for 13.5m wide road reserves adjoining POS, however, Lot 8 to the north is currently being developed with subdivision plans showing a 14m wide road reserve abutting the POS. To ensure consistency between the two

developments and alignment between the road and POS a 14m wide reserve is supported;

- 12m wide reserve for the east-west road – the applicant has advised that this reservation will include an offset road pavement due to the above ground water main easement to the south of the subject lot, however a 4.1m road verge will be maintained on the northern side of the pavement. Council accepted a 12m wide road reserve for Carmel Way, on the eastern side of Hammond Road, due to the same Water Corporation easement. Given the width of the Water Corporation easement to the south (approx. 9.5m) and subject to the applicant providing a cross section at the time of subdivision to prove that all services can be catered for in the northern verge the 12m wide road reserve is acceptable.

It has also been noted on the Structure Plan that there is to be no direct lot access onto Hammond Road due to the high traffic volume this road will carry in the future.

### Drainage

After negotiations between the applicant and Council Officers a 1:10 year drainage basin will be constructed within the northern portion of the public open space. Storm events over the 1:10 year will flow over land, northwards to the drainage basin within Lot 8. This drainage system is suitable to Council Officers, however the applicant is to be advised that a Drainage and Nutrient Management Plan will be required at the time of subdivision.

### Conclusion

The Structure Plan meets most planning criteria for a proposal of this type. The issues raised in the submissions can and have been addressed through minor modifications and as such the proposal is appropriate for the development of the site and it is recommended that the Council endorses the Structure Plan subject to the following minor modifications being made:

- The loop road reservation being increased to 15m;
- The Structure Plan Report to be modified to include information on the road reservations and the reviewed drainage system.

### **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 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."*
  
2. 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."*
  
3. 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."*

The Planning Policies which apply to this item are:-

SPD4	'Liveable Neighbourhoods'
APD4	Public Open Space
APD26	Control Measures for Protecting Water Resources in Receiving Environments
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

### **Budget/Financial Implications**

N/A

### **Legal Implications**

The Structure Plan was advertised in accordance with the requirements of Town Planning Scheme No. 3. Five submissions were received during the advertising period.

### **Community Consultation**

N/A

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

Nil

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

**15.1 (OCM 18/01/2005) - LIST OF CREDITORS PAID (5605) (KL)  
(ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for December 2004, 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

**Legal Implications**

N/A



**Community Consultation**

N/A

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

Nil.

**15.2 (OCM 18/01/2005) - TSUNAMI RELIEF APPEAL (5300) (KL)**

**RECOMMENDATION**

That Council:

- (1) donate \$\_\_\_\_\_ to World Vision Tsunami Relief Appeal or the Australian Red Cross; and
- (2) authorise collectors from Care Australia, World Vision, the Australian Red Cross or other bonafide charitable agencies to collect funds for the Tsunami Relief victims during Cockburn's Free Summer of Fun Events.

**COUNCIL DECISION**

**Background**

Council from time to time may desire to contribute to situations where organisations are seeking financial aid for relief appeals.

**Submission**

A request from the Mayor has been received to authorise bonafide charitable collectors to make a collection during Cockburn's Free Summer of Fun Events.

**Report**

Council may feel that it is necessary to contribute to this worldwide appeal.

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

N/A

### **Budget/Financial Implications**

Emergency Disaster Fund - \$1,000 – OP9004  
Restricted Funds – Flood Appeal - \$2,192

### **Legal Implications**

N/A

### **Community Consultation**

N/A

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

Nil.

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

### **16.1 (OCM 18/01/2005) - SOLOMON ROAD DEVELOPMENT AREA AND COCKBURN CENTRAL MAIN DRAINAGE (450058) (BKG)**

#### **RECOMMENDATION**

That Council:

- (1) adopt the report “Cockburn Central and Solomon Road Development Area, Arterial Drainage Scheme Review” dated November 2004 prepared by David Wills & Associates, and its subsequent updates as approved by the Director of Engineering & Works;
- (2) requires all subdivisions and developments within the boundary of Development Area 20 as shown in City of Cockburn Town Planning Scheme No 3 maps and the surrounding industrial area in Cutler Road and the area known as Cockburn Central to conform to this plan;
- (3) approve the engagement of a suitably qualified consultant by the Director, Engineering & Works on an as required basis to assess that proposed subdivisions and developments do comply with this plan; and
- (4) initiate an amendment to Town Planning Scheme No.3 to create

a new Developer Contribution Area (DCA) for Development Area 20.

## **COUNCIL DECISION**

### **Background**

Most of the land in the eastern sector of the municipality is low lying with a high water table. When the land is developed regional drainage strategies are required to safeguard the properties from possible flooding.

A consultant was employed to prepare a drainage strategy for the industrial area centred on Cutler Road and Solomon Road and the area known as Cockburn Central.

### **Submission**

Applications for subdivisions and development have been submitted in the industrial area centred on Cutler Road and Solomon Road.

### **Report**

When developers and their consultants submit plans for subdivision and development in the Jandakot Industrial Area including Development Area 20 in the Town Planning Scheme No 3, there is a requirement to provide for drainage and in particular to control the groundwater levels.

The staff in the Engineering Division do not have experience or expertise in designing drainage systems that control groundwater. Because of this a consultant was employed to produce a plan and a report. Previous to this State Government agencies such as the Water Authority of WA performed the role of controlling regional drainage and its effects on the groundwater

The plan has now been completed and it is recommended that all subdividers be advised that they need to comply with this plan and that compliance be verified by a qualified consultant.

A copy of the report by David Wills & Associates titled "Cockburn Central & Solomon Road Development Areas, Arterial Drainage Scheme Review" dated November 2004 is available from the Director

Engineering & Works. The report will be amended and reviewed with time as issues associated with developments arise. However, its basic regional drainage strategy will be maintained.

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

One of the objectives of the Strategic Plan is to provide and maintain roads and drainage, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians.

One of the policies in TPS No 3 specifies that charges relating to regional drainage can be recouped from owners developing the land within a specified development area.

### **Budget/Financial Implications**

Some of the work that may be required to be undertaken is outside the development area, such as the possible boring of a drainage pipe under the Kwinana Freeway, so funds will need to be collected progressively from developers and retained in specific accounts. The budget will need to show these funds.

There will also be an ongoing cost for David Wills as his services are required for assessment of subdivision applications.

### **Legal Implications**

The power to impose drainage conditions is possible under the Town Planning and Development Act, as a condition of subdivision.

The power to levy funds for contribution to the main drainage system is possible under the City of Cockburn's Town Planning Scheme No 3, through the application of Development Contribution Areas (DCA). To achieve this TPS No.3 would need to be amended to create a new DCA for Development Area 20.

### **Community Consultation**

There has been consultations with the Water Authority of WA and the Water & Rivers Commission.

There have been no consultations with the owners of the land but if they are developers they understand there will be drainage conditions imposed by the local authorities when they lodge plans for submission and development.

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

Nil

**16.2 (OCM 18/01/2005) - AUTHORITY TO USE TRAFFIC SIGNS AND DEVICES AT ROADWORKS - NEW INSTRUMENT OF AUTHORISATION (4306) (IS)****RECOMMENDATION**

That Council endorses the "Instrument of Authorisation" under Regulation 297 (1) of the Road Traffic Code 2000 for the City of Cockburn to use traffic signs and devices at roadworks by having the document signed and sealed and duly advise Main Roads Western Australia (MRWA) of this approval.

**COUNCIL DECISION****Background**

Without the authorisation by the Commissioner of Main Roads to use traffic signs and devices for the purpose and duration of roadworks on public roads in WA, in accordance with the MRWA 'Traffic Management Requirements for Works on Roads' under Regulation 297 (1) of the Road Traffic Code (RTC) 2000, and without seeking specific approval of their traffic management arrangements from the road authority, the City of Cockburn workforce are not permitted to undertake any works within the public road reserve.

**Submission**

A letter was received from the Commissioner of Main Roads Western Australia requesting Council's endorsement of the "Instrument of Authorisation" authorising the City of Cockburn to erect temporary traffic control signs and devices to undertaken any construction and/or maintenance roadworks on public roads within its council boundaries.

**Report**

Western Australia has over 170,000 kilometres of roads, which periodically require reconstruction, maintenance or work on services within their road reserve. Unfortunately these tasks have the potential to create hazardous situations for both roadworkers and users that may produce serious or even fatal consequences.

Only the Commissioner of Main Roads Western Australia has the authority under Regulation 297 of the Road Traffic Code 2000, to erect, establish or display, alter or take down any road sign or traffic control

signal on public roads. With this comes a duty of care to facilitate the safe and appropriate use of road signs and devices.

The requirements are to promote safe and consistent traffic management practices at work sites on public roads in accordance with state legislation and national standard requirements. These requirements are in line with the general compliance of the Australian Standard 1742.3 - 2002 and associated field guides.

For Council's workforce to be able to undertake any works on public roads and comply with the above regulations and requirement, it must have the appropriately signed Instrument of Authorisation from the Commissioner of Main Roads Western Australia to be able to do so.

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

An objective of the Corporate Plan is to construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

It is not expected to be any increase in expenditure due to this Instrument of Authorisation being implemented, as this has been the general practice for undertaking any roadworks within the City of Cockburn by the Council.

### **Legal Implications**

N/A

### **Community Consultation**

N/A

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

Nil.

## **17. COMMUNITY SERVICES DIVISION ISSUES**

### **17.1 (OCM 18/01/2005) - CONCERT AT MANNING PARK PROPOSED FOR 19 MARCH, 2005 (5401) (DMG) (ATTACH)**

#### **RECOMMENDATION**

That Council resolves not to call Tenders for the provision of a "Classic Event" at Manning Park in 2005, because of the unique nature of the

services required, in accordance with Regulation 11(2)(f) of the Local Government (Functions and General) Regulations, 1996.

## **COUNCIL DECISION**

### **Background**

Council allocated an amount of \$40,000 in the 2004/05 Municipal Budget to conduct a "Classic Event" at Manning Park. Upon investigating opportunities for the type of entertainment to be provided, a promotion company experienced in the field suggested that Marcia Hines would be an appropriate selection.

However, as overall costs to proceed with this option exceeded the amount available, Council resolved to increase its allocation to cover the additional costs, which total \$67,000, as per the attached estimate of expenditure.

In the ensuing period between the Council decision and receiving a response from the promotion company it has been confirmed that Marcia Hines is now not available for 19 March, 2005.

In addition and pursuant to tendering requirements which apply to local government in this state, the provision of goods or services over a value of \$50,000 are required to be offered by tender, unless specifically exempted.

### **Submission**

To resolve not to call Tenders for the provision of entertainment at a concert, due to the unique nature of the services required.

### **Report**

Because the monetary consideration of this proposal is known to exceed \$50,000, Council is required to abide by the tender provisions of the Local Government Act, 1995 and its associated Regulations.

Normally, this would involve the service being publicly tendered. However, as the entertainment option being pursued relates only to one artist, it is competent for Council to resolve that, because of the unique nature of the service required, there is no other potential supplier and therefore tenders should not be called.

However, as this is not a function delegated by Council to be determined administratively, it is necessary for a decision to be made by Council resolution on this occasion.

The promoters of the concert are checking the availability of Marcia Hines for dates other than 19 March, 2005, as well as seeking the availability of other suitable performers for dates on or around 19 March, 2005, which do not conflict with other Council events.

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

Key Result Area "Facilitating the Needs of Your Community" refers.

### **Budget/Financial Implications**

Council has allocated \$67,000 on its Municipal Budget for the concert to be conducted on 19 March, 2005.

### **Legal Implications**

Sec. 3.57 of the Local Government Act, 1995, and Part 4, Regulation 11 of the Local Government (Functions and General) Regulations, 1996 refer.

### **Community Consultation**

N/A

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

Concerts of the scale proposed are normally undertaken by private event organisers and promoted commercially.

As the Council is proposing a free public concert using Manning Park as the venue, cost recovery is not an issue on this occasion.

However, a contract between Council and an event management company will need to be agreed to, as an assurance that the concert will be professionally conducted.

## **18. EXECUTIVE DIVISION ISSUES**

Nil



**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****19.1 (OCM 18/01/2005) - COCKBURN CENTRAL YOUTH CENTRE COMMITTEE (81364) (DMG)****RECOMMENDATION**

That Council:

- (1) dissolve the Cockburn Youth Centre Reference Group;
- (2) pursuant to section 5.8 of the Local Government Act, 1995, establishes the Cockburn Central Youth Centre Committee;
- (3) nominates the following positions as the composition of the Committee:
  1. 2 Elected Members – City of Cockburn, being \_\_\_\_\_ and \_\_\_\_\_
  2. Mayor – Youth Advisory Council
  3. Nominee – Youth Advisory Council
  4. Manager – Community Services (advisor)
  5. Youth Services Coordinator – (advisor);
- (4) nominates the following Terms of Reference for the Committee:
  1. to provide advice to Council on matters related to the development of the facility including
    - (i) building design and space allocation within the building envelope and associated parking and landscaping design;
    - (ii) partnership and other arrangements with third parties for the use of the facility or joint development proposals;
    - (iii) construction and fit out budget for the facility and associated infrastructure;
    - (iv) operational budgets for the facility; and
  2. co-opt as not voting members as and when deemed necessary
    - (i) individuals with specific technical skills and
    - (ii) individuals who have an interest in the development of the facility

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

## COUNCIL DECISION

### Background

By e-mail received 13 December, 2004, Deputy Mayor Graham, in conjunction with Manager, Community Services, proposed the following Notice of Motion to be considered by Council at its Ordinary Meeting to be held in January 2005.

*“That Council dissolve the Cockburn Youth Reference Group and under section 5.8 of the Local Government Act 1995 establish the Cockburn Central Youth Centre Committee.*

1. *The membership of the Committee comprise:*
  - a. *Two elected members*
  - b. *Youth Advisory Council Mayor*
  - c. *A member of the Youth Advisory Council*
  - d. *Manager, Community Services*
  - e. *Youth Services Coordinator*

*The committee will be empowered to co-opt as not voting members as and when deemed necessary individuals with specific technical skills and individuals who have an interest in the development of the facility.*

2. *The committee will provide advice to Council on matters related to the development of the facility including*
  - a. *Building design and space allocation within the building envelope and associated parking and landscaping design.*
  - b. *Partnership and other arrangements with third parties for the use of the facility or joint development proposals.*
  - c. *Construction and fit out budget for the facility and associated infrastructure.*
  - d. *Operational budgets for the facility.”*

### Submission

To establish a Committee to progress this matter in lieu of the current Reference Group.

## Report

In November 2003, Council appointed an in-house reference group to progress the establishment of a community facility focussed on providing activities for young people.

Since then the group has liaised with a consultant to determine some preliminary principles associated with the location of the facility and the main activities and programmes to operate from it.

It is now considered appropriate that a more formal Committee structure be established to advise Council and recommend the progression of the facility.

The proposed composition of the Committee enables input from key stakeholders, through the Youth Advisory Council, and the ability to co-opt persons with specific interest or skills necessary to ensure the correct processes are applied in determining the future of the facility.

## Strategic Plan/Policy Implications

“Facilitating the Needs of Your Community” refers.

## Budget/Financial Implications

N/A

## Legal Implications

Sec. 5.8 of the Local Government Act, 1995, refers.

## Community Consultation

N/A

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

Nil.

## 19.2 (OCM 18/01/2005) - PROPOSED AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - COMPULSORY RAINWATER TANKS (6605) (SMH) (ATTACH)

### RECOMMENDATION

That Council:

- (1) receive the report;
- (2) not initiate an Amendment to Town Planning Scheme No. 3 to

make it compulsory for all new dwellings to install rainwater tanks;

- (3) not prepare a Policy to provide for a rebate to encourage existing homeowners to install rainwater tanks;
- (4) investigate the potential for a preferential supply arrangement with a local supplier that affords ratepayers the ability to purchase rainwater tanks at lower costs than currently exist; and
- (5) refer this item for review as part of the City's sustainability initiatives.

## COUNCIL DECISION

### Background

At the Council meeting held on 15 April 2003, the following item was listed under "Matters To Be Noted for Investigation Without Debate":-

"Mayor Lee requested officers to investigate the feasibility/legality of requiring that all new residences within the City of Cockburn, be provided with water tanks to complement the existing potable water supply. The report is to include details of the existing government rebates etc for provision of water tanks, type/size of tank required in relation to lot size etc."

A report was presented to the Council meeting held on 20 May 2003, and the Council resolved:-

*"That Council:*

- (1) *receive the report; and*
- (2) *not pursue the matter of requiring that all new residences within the City of Cockburn install water tanks to complement the existing potable water supply."*

Council at its meeting held on 21 December 2004 considered the recommendation and resolved to defer the matter to the Ordinary Council Meeting in January 2005.

The explanation was that as this issue was a Notice of Motion from Cllr Allen, he is the only one that can raise the issue. Therefore Council should defer the matter until January and Cllr Allen's return.

### **Submission**

In an email received on 9 December 2004, the Mayor requested that an item be prepared for the December meeting of Council in accordance with a request from Cllr Allen to the Mayor as a Notice of Motion:-

*"Can you organise on my behalf a recommendation or notice of the following Change to TPS to make "rainwater tanks compulsory from \_\_\_\_\_ in all new homes. For all existing homes, council offer a rebate of \$40 towards the purchase of a rainwater tank. Or something along these lines.*

*It's felt that Cockburn Council should take a lead in the prevention of excess water within the home system.*

*(Unit development may be exempted)"*

Subsequently, the following notice was prepared by Council Staff and approved for submission by Councillor Allen.

### **"Notice of Motion**

That Council:-

- (1) initiate an Amendment to Town Planning Scheme No. 3 to make it compulsory for all new dwellings to install rainwater tanks, effective from the date of gazettal of the amendment.
- (2) prepare a Policy to encourage existing homeowners to install rainwater tanks by providing a \$40 rebate paid by the City.
- (3) instruct the Director Planning and Development to prepare the scheme amendment for the consideration of Council at its next meeting and prepare a draft policy for consideration of the next meeting of the Delegated Authority and Policy Committee. "

### **Report**

A copy of the report prepared in support of the report presented to the Council on 20 May 2003, is attached to the Agenda.

The contents of the report continue to apply.

In the publication “*Guidance on the Use of Rainwater Tanks*” published by ‘enhealth’ Australia’s peak Environmental Health Organisation, it states.

*“Although the most common use of rainwater tanks is to supply drinking water, there has been much debate over the suitability of using household tanks for this purpose. This debate has tended to be focused in the major urban centres where high quality mains water is available. In rural and remote parts of Australia, use of rainwater tanks to supply drinking water has been a long-standing and often essential practice.*

*The decision about how to use rainwater is a matter of personal choice. In making this decision, it should be recognised that, although the risk of contracting illness from rainwater supplied from well-maintained roof catchments and tanks is low, the quality of water from household tanks is not as consistently high as that provided by well-managed urban water supplies. Microbiological quality is not as reliable as mains water, particularly after rain events. In addition, there are a few areas where impacts from major industrial emissions (for example, Port Pirie, South Australia) mean tank rainwater is not suitable for drinking and food preparation. The impacts on rainwater of very large densities of traffic, and other emissions, in Sydney and Melbourne are yet to be determined.*

*One option to decrease any potential risk from tank rainwater is to minimise oral exposure by limiting use of the collected water to supplying hot water services, bathing, laundry, toilet flushing or gardening (that is, not for drinking or food preparation).*

*The water quality requirements for non-potable uses are lower than those for drinking water. Guideline values cited in the Australian drinking water guidelines are based on a daily consumption of 2 L of water per day for an adult and 1 L for a child.”*

The Water Corporation website which promotes the rainwater tank waterwise rebate scheme refers to the ‘enhealth’ guidelines.

The guidelines make reference to the fact that rainwater tanks may not be suitable for areas impacted on by major industrial emissions, such as Port Pirie in South Australia. Although there is no evidence that the Kwinana Industrial Strip may affect the quality of water collected from roofs in the Kwinana and Cockburn districts, the Kwinana Strip is designated as a heavy industrial area, around which an air quality buffer has been established. The State Government is concerned about people living within the buffer to such an extent that they are actively purchasing residential properties in Hope Valley and Wattleup townsites with a view to relocating people out of the area. This may give an indication of the likely impact that the Kwinana Strip, Cockburn Cement and the Henderson Industrial Area could have on residential

areas located on the leeward side of these large industrial activities. Therefore, due care should be taken in respect to making rainwater tanks compulsory in the suburbs of Munster, Beeliar, Success and Hammond.

The proposal is to amend the scheme, which is currently the only way of making rainwater tanks compulsory through the planning approval process.

The options are to add a new clause 5.8.2 or 5.8.7 Rainwater Tanks.

The clause has to be written to require the installation of a rainwater tank of a minimum size and that care be taken not to promote its use as an alternative drinking water source.

The other part of the suggestion is to provide a \$40.00 incentive for existing homeowners to voluntarily install rainwater tanks. This would be provided for by way of a Council policy.

In New South Wales, the government has introduced a compulsory building licence environmental performance system called "BASIX". To achieve an acceptable score in respect to water efficiency, a rainwater tank is required to be installed of at least around 5,000 litres and be plumbed for laundry, toilet and garden purposes. It is understood that drinking water is not prohibited.

This gives some guide as to the likely size of tank required and the use of the water for domestic purposes.

In addition, the State Government, as part of its State Sustainability Strategy, is investigating the suitability of introducing BASIX or another variation of it into the building licence system in Western Australia. Therefore, the requirement for rainwater tanks could be achieved through this means.

Based on the Council report of 20 May 2003, together with the foregoing observations, the potential cost to Council and the fact that it duplicates an existing State Government incentive, it is not recommended that the Amendment or the incentive scheme be pursued by the Council.

There may be however, options for the City to enter into a preferential supply arrangement with a tank supplier that could reduce the current tank purchase price for local ratepayers. This would need further research but has the potential of achieving the same outcome as an additional rebate.

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

N/A

## Budget/Financial Implications

If the suggested Amendment was to be implemented, the following financial implications could apply.

Currently there are around 1300 single dwellings being constructed in Cockburn each year.

If it is compulsory that each dwelling install a 5000 litre rainwater tank, based on 1300 tanks being installed each year, it would mean:-

• City cost	Nil
• State Incentive Scheme \$150/tank	\$195,000 p.a.
• State Incentive Scheme with plumbing \$300	\$390,000 p.a.
• Cost to Owners 4500 litre (installed) \$2,800 ea (plumbed)	\$3,640,000

This is based on the assumption that despite the rainwater tanks being compulsory in the City of Cockburn, property owners would continue to be eligible to claim a rebate from the State Government under the rebate scheme.

It can be seen this approach would be at no cost to the City.

However, the State could be required to pay between \$195,000 to \$390,000 per annum in rebates depending upon the tank being either installed with no connection to the laundry or toilet, or with a pump and connection to the laundry and toilet.

The cost of a 4,500 litre (1000 gallon) is around \$870 - \$890 with around \$2000 of plumbing costs to connect into the house system.

The additional cost to the construction of 1300 houses with plumbed rainwater tanks could be in the order of \$3.6 million.

If the suggested incentive scheme is implemented at a cost of \$40 per dwelling, it could be a cost to the City of \$96,000 if say 10% of all dwellings in the district took advantage of the scheme and based on there being around 24,000 dwellings in the district (June 2004), it could cost:-

• City cost (ie 2400 rebates per annum)	\$96,000
• State Incentive Scheme \$150/tank	\$360,000
• State Incentive Scheme with plumbing \$300/tank	\$720,000
• Cost to owners 4500 litre (installed) \$2800 (plumbed)	\$6,720,000

Even with the State Incentive Scheme, the suggested \$40 incentive would have minimal impact on the cost of this initiative.



To put the State's rebate scheme into perspective, the following is understood to be the situation based on enquiries with the Water Corporation (WC):-

1. The rebate scheme commenced in February 2003 (ie. 22 months)
2. Water saving incentives for which a rebate can apply:-
  - soil wetter
  - washing machines
  - bores
  - rainwater tanks.
3. The WC is receiving about 420 enquiries per day in respect to the incentive rebate scheme.
4. As at 13 December 2004, there had been 5,177 rainwater tank rebates issued by WC for the whole of the state. Rebates only apply to households that are connected to scheme water. (ie 235 rebates per month).

If a population of 1.2 million generates 5,177 rebates, which is less than 0.5%, then it could be expected that a population of 76,000 in the City of Cockburn would more realistically be around 325 rebates per year, rather than the 10% used for indicative costing purposes. The likely level of interest is difficult to estimate.

If this were to be the case, however, then the costs could be:-

• City cost (ie 325 rebates per annum)	\$13,000
• State Incentive Scheme 150/tank	\$48,750
• State Incentive Scheme with plumbing \$300/tank	\$97,500
• Cost to owners 4500 litre (installed, plumbed)\$2,800	\$910,000

To make the \$40.00 available as a rebate, there would be a need to raise the source of funds through the general rates. In other words the recipient is paying for the rebate through the property rate.

### **Legal Implications**

If the Council is to make the installation of rainwater tanks compulsory and they are used as an alternative source of drinking water, then legal advice should be sought, to ensure that the Council is protected against any claims for compensation arising from an illness or diseases contracted from drinking rainwater from a compulsorily installed tank.

In addition, the Development Services Department currently does not apply the R-Code setback to rainwater tanks associated with the

construction of a dwelling. This allows, therefore, for tanks to be located in small spaces such as a side setback.

### **Community Consultation**

There has been no community consultation in respect to this proposal.

However, if the Council resolved to proceed with a scheme amendment to make the installation of rainwater tanks compulsory, then public comment would need to be sought. This could be achieved through the Strategic Planning exercise to be undertaken in 2005 via comment on a 'sustainability' plan.

Should the \$40 incentive scheme be pursued, then Council could choose to seek public comment or not before considering and adopting a suitable policy.

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

The Amendment would be contrary to the State's position of making the installation of rainwater tanks voluntary. The suggested Amendment proposes to make the tanks mandatory. The incentive scheme is also a duplication of an addition to the State Government's (Water Corporation) waterwise rebate scheme.

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

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

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**