

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 20 APRIL 2004 AT 7:00 PM

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 20 APRIL 2004 AT 7:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Ms A Tilbury	-	Councillor
Mr I Whitfield	-	Councillor
Ms L Goncalves	-	Councillor
Mrs S Limbert	-	Councillor
Mr M Reeve-Fowkes	-	Councillor
Mrs V Oliver	-	Councillor

##### IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr A. Blood	-	Acting Director, Planning & Development
Mr B. Greay	-	Director, Engineering & Works
Mrs B. Pinto	-	Secretary/PA, Finance & Corporate Services
Mr C. Ellis	-	Communications Manager

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00 pm.

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

Nil

#### 3. DISCLAIMER (Read aloud by Presiding Member)

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



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

Nil

**5 (OCM 20/04/2004) - APOLOGIES AND LEAVE OF ABSENCE**

Clr A. Edwards - Apology  
Clr K. Allen - Apology

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

**Mr L. Howlett - Ordinary Council Meeting 16/3/04 - Public Question Time**  
- asked Council what its policy is on the retention of public records and the duration of the retention periods as defined under the State Records Act, 2000, and also what access does the public have to those public records.

Response dated 31 March, 2004, advised that retention and the duration of the retention period with respect to Council public records is determined according to those timeframes prescribed under the General Disposal Authority for Local Government. Originally compiled by the State Library Board, this document has since been ratified by the State Records Commission of WA and is of legal standing. Schedule One of the State Records Act, 2000, stipulates that Retention and Disposal practices must reflect and comply with those arrangements as detailed under Section 8 (Principle 5) of Council's Record-Keeping Plan, which amongst other things states:

"All records created, received or held by the City of Cockburn must only be disposed of legally, in accordance with Retention and Disposal Schedules approved by the State Records Commission."

Access to public records is dependent upon the nature of the information contained therein, with certain correspondence not being available to outside agencies or members of the general public for reasons of privacy, sensitivity, security, commercial-in-confidence, etc. To a large degree, the type of information which may be viewed by a member of the public will be dictated by those terms and conditions as contained within the Freedom of Information Act, 1992, the Local Government Act, 1995 and Council Policy. It is worth noting that the term "public record" has to a certain extent been usurped by "Government or State record", as the former description tended to give the impression such documentation was readily perusable by the general public, etc - a public or government recording being that which is received, maintained or generated by an authority in the course of its official duties.





**Mr L. Humphreys – Ordinary Council Meeting 16/3/04 - Public Question Time** - queried the transfer of \$10,000 from the Safer WA Committee Account.

A response dated 2 April 2004, advised that Council will, at its April Council Meeting as part of its budget review, consider allocating \$10,000 for the Safer WA Committee. Subject to the allocation of funds by Council, the City will pay the outstanding account from the Fremantle Community Policing Safer WA Committee. Any future funding of Safer WA will be considered in the context of the overall provision of community safety and crime prevention initiatives for the City. The matter will be subject to a report to be prepared for consideration by Council on community safety and crime prevention initiatives with reference to the commitments made in the State Government/City of Cockburn Community Safety Crime Prevention Partnership.

**Mr L. Howlett - Ordinary Council Meeting 16/3/04 - Public Question Time** - asked the following questions in regards to the Port Coogee Marina Development issue and was provided with the responses in a letter dated 1 April 2004:

Q *How far can this Council commit itself for the ratepayers of this district in the future? What authority does Council have to commit this Council and the community passed May 2005?*

A At the Council Meeting, the Mayor responded that Council has the power and is responsible to act on a daily or monthly basis, as best as it sees fit and it will do so. The CEO understood the question to be a general question and not specific to Port Coogee so therefore, it is to be understood that Council may commit future Councils by way of any contract which is entered into.

Q *On a specific area rate which will protect all other ratepayers apart from those who live within the confines of this proposed development, this Council tonight will ensure for ever more in the future that we who choose to live outside, will not be impacted financially or in any other way, this Council will tonight commit all future Councils elected by the ratepayers of the district to that?*

A Unless a contractual obligation exists, it would seem that a Council cannot commit another Council beyond the financial year of which the rate is imposed.

## 7 (OCM 20/04/2004) - PUBLIC QUESTION TIME

Mayor Lee mentioned that he had received two written questions from **Ron Kimber** and **Bev Kimber** respectively. He said he was unable to provide any answers to both of these questions as they would need to be researched. However, the matter raised in regard to postal voting, where Mr



Kimber mentioned that he had read a letter in the Cockburn Gazette of 30 March expressing a belief that Council apparently does not endorse postal voting. Mr Kimber asked to please explain, what is the Council's position in relation to postal voting?

Mayor Lee replied that Council is a strong supporter of postal voting. Council in no way would oppose or delete the use of postal voting. He has no answer as to how the Gazette had sought such information.

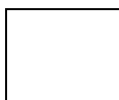
**Damien Jones**, resident of Atwell and President of the Jandakot Junior Football Club. He said he has been requested to approach Council in regards to the ground allocation for the use of the Atwell Reserve. He said that in January 2003, representatives from the Football Club, the Softball Club and Council, it was agreed that the Winter Softball Competition would relocate to another ground for the 2004 season, hence leaving the use of Atwell Reserve on Sundays for the Jandakot Junior Football Club. But this did not eventuate. Mr Jones asked Council whether it had any plans for the future as the Junior Football Club was the largest in the area and will continue to grow. Mayor Lee asked if the Club is satisfied that the needs are being met at the present time? Mr Jones said that the Club is fairly satisfied in what is being provided at the moment. Mayor Lee stated that there needs to be a dialogue between the parties prior to the next season.

Mayor Lee thanked Mr Jones for his comments.

**Brad Parker**, Atwell and Registrar of the Jandakot Jets Football Club. He said that the Club had some concerns in the co-sharing of the facilities of Atwell Reserve with the Softball Club. His other concern was the mixing of juniors and seniors, where there is the sale of alcohol by other Clubs using the facilities. As a result of this, the Football Club is subjected to a lot of anti-social behaviour. The Club is not seeking exclusive use of the facility, but in particular usage on Sundays. Mr Parker requested Council to kindly investigate the matter and allow the Club to be given fair treatment in the use of the Atwell Reserve.

Mayor Lee thanked Mr Parker for his comments.

**Patrick Thompson**, Spearwood spoke in relation to employing a consultant to look at the needs of the elderly. Mayor Lee confirmed that this was the case. Mr Thompson's concern was as to who would be preparing the questionnaire. Mayor Lee replied that the Consultant in conjunction with the Community Services Department of Council will be developing the questionnaire. Mr Thompson also queried as to what it would cost the Council? Director, Community Services was unable to provide an answer. Mr Thompson suggested whether it would be feasible to employ a full time employee to perform this task, considering the rapid growth in seniors? Mayor Lee responded that as it would be an extensive consultation process,



it was considered best to employ a consultant.

Mayor Lee welcomed Mr Thompson's comments.

**Laurie Humphreys**, Coolbellup spoke in relation to Item 14.7 – Bibra Lake Kiosk. The answers were provided by Manager, Planning Services.

Q 1. How many times did Council staff meet with the combined land management group to discuss the matter?

A.1 Staff had one joint meeting with the Group.

Q2. Is it a fact that a group lead by Robert Bropho said that this was a sacred site that the Kiosk was going to be developed on and by relocating it, would this still be considered a sacred site?

A2. It is a sacred site and even by relocating it to a minimal amount, it would still in their view remain a sacred site.

Q3. Has there been any effort made with this Group to meet again since the last meeting?

A3. No, there hasn't been any meeting. It was felt that it would be better to obtain some direction from Council before any further meetings were held. Following this there will be further consultation with the Group regarding the alternative proposals.

Q4. Is it a fact that some 21 members of this Group, who turned up for the meeting, were paid \$300 each, totalling \$6,300?

A4. That is correct.

Q5. It is suggested that the Chief Executive Officer negotiate a package? What does this actually mean?

A5. The report clearly states that Council does not have to support any financial consideration as part of the package. What is being referred to is in engaging Aboriginal people to do some commemorative artwork to acknowledge the past association that the people have with the area.

Mayor Lee thanked Mr Humphreys.

**Andrew Hodge**, Gospel Community Church spoke in relation to the proposed lease of the South Coogee Agricultural Hall. His concern was that another Group had put forward a proposal in having exclusive lease of the South Coogee Agricultural Hall. He said that having used the Hall for some 2 years, the community was only beginning to identify the Church. The



Church wasn't aware that any other arrangement was possible. Had they been aware that an exclusive lease could have been made, they would be prepared to do the same. All the Church is requesting is to be given a fair go, an equal opportunity to put a similar proposal.

Mayor thanked Mr Hodge for his input.

**8. CONFIRMATION OF MINUTES**

**8.1 (MINUTE NO 2362) (OCM 20/04/2004) - ORDINARY COUNCIL MEETING - 16/3/2004**

**RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Tuesday, 16 March 2004, be accepted as a true and accurate record.

**COUNCIL DECISION**

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 8/0**

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

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

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

Nil

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

Nil



### 13. COUNCIL MATTERS

#### 13.1 **(MINUTE NO 2363) (OCM 20/04/2004) - AMENDMENTS TO THE CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 2000 (1116) (SF/LJCD) (ATTACH)**

NOTE: The purpose and effect of the amendments was read aloud at the meeting.

##### **RECOMMENDATION**

That Council amend the City of Cockburn (Local Government Act) Local Laws 2000, as per the attachment, pursuant to section 3.12(2) of the Local Government Act 1995.

##### **COUNCIL DECISION**

MOVED Cllr A Tilbury SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted.

**CARRIED 8/0**

#### **Background**

The City of Cockburn (Local Government Act) Local Laws 2000 were published in the *Government Gazette* on 9 October 2000, and came into force fourteen(14) days later as prescribed by the Local Government Act 1995. Notwithstanding this point, from time to time amendments have been promulgated to make the local laws more functional for the staff to carry out their duties.

At the Council Meeting on 17 February 2004, Council amended the City of Cockburn (Local Government Act) Local Laws 2000, pursuant to section 3.12 of the Local Government Act 1995.

Subsequently, Council has received information from the Department of Local Government and Regional Development that the initial period of statutory advertising was insufficient to allow for a mandatory 6 weeks timeframe for public submissions.

Therefore, the Department's suggestion is that the amendment process be recommenced in order to conform with the legislative requirements.

In addition, while checking the proposed amendments in Section 2A.5.(2)(b) Burning Rubbish, Refuse or other Material, it was discovered that the words "green garden materials" should be removed. Section 2A.5.(2) states that approval must be obtained (Burn Permit) from an authorised person (Fire Control Officer) who would assess and make judgement as to whether a Permit would be issued.



If there is a need to carry out a Hazard Control Burn to remove the hazard of high fire fuel loads on a property to make the property safe, the burning of green trees and/or shrubs may be required in some circumstances. The proposed deletion has been agreed to by the Environmental Health Department, which originally included the wording as a pollution control measure.

Currently, Part II Division 6 of the Local Laws (Animals) Section 2.27 relates to the keeping of sterilised miniature horses only in urban areas. The proposal is to remove the sterilisation requirement.

The current position in relation to firebreaks is that a Fire Control Order is published each year under the ambit of the Bush Fires Act 1954, in the format of a pamphlet stipulating the requirements regarding the provision of firebreaks on property and the pamphlet is distributed with the rates notice annually. This procedure is undertaken to ensure that the ratepayers are made aware of their obligations and such a practice has been in place for some years. Furthermore, the Fire Control Order is published in *The West Australian* and two local newspapers as well as the *Government Gazette*. Hence, the residents are made fully aware, given the media coverage, of what is required of them regarding the construction of firebreaks. It is considered that every effort is made to educate the ratepayers regarding the issues surrounding fire management on their property.

When properties are inspected and there is a breach of the Fire Control Order, the rates database is checked to ascertain if the property was cited previously for a breach of the Fire Control Order. If there was no previous breach, the owner of the property is forwarded a letter advising that the firebreak should be installed within fourteen (14) days and that the property will be re-inspected to ascertain if the firebreak has been constructed. (There is no requirement by law to send a warning letter to the property owners. This practice has been in place for quite some time). If after that period, the firebreak is not installed, an infringement notice is issued and a contractor is engaged to construct the firebreak at the owner's expense. If a property owner has been previously noted for breaching a Fire Control Order, no initial warning letter is sent. The property is re-inspected after fourteen (14) days and if the firebreak has not been constructed, an infringement is immediately issued and a contractor is engaged to construct the firebreak at the owner's expense.

The provisions currently contained in Part VIII (Sec 8.26) relating to Signs are at variance with Australian Standards. Therefore, a minor amendment is proposed to correct this anomaly.

**Submission**

N/A



## Report

Council adopted amendments to the Local Laws on 18 November 2003. The amendments were published in the *Government Gazette* on 25 November 2003, and minor drafting errors were found in the text of the amendments and therefore, the first part of this draft amendment deals with a Corrigendum. That is, a statement to correct the errors previously published.

Section 2.27 of Part II – Animals in part reads '*An owner or occupier of premises may keep a sterilised miniature horse on land of not less than 1000m<sup>2</sup>*'. An application under section 2.27 was received by the Environmental Health Services section to keep an unsterilised miniature horse on land of not less than 1000m<sup>2</sup>. The application could not be dealt with as the local law made specific reference to 'a sterilised miniature horse'. The section has been rewritten removing all reference to 'a sterilised miniature horse' and therefore, the section becomes more practical allowing a miniature horse to be kept on land of not less than 1000m<sup>2</sup> in area.

The amending draft to the local laws goes on to outline changes to the local laws. For example, a new Part is to be introduced into the City of Cockburn (Local Government Act) Local Laws 2000, entitled 'Part IIA - Firebreaks and Related Matters.' In the past, matters relating to firebreaks have been administered by virtue of a Fire Control Order and managed by Officers within the Safer City Section of Council's Administration. These officers are being re-assigned to other duties and hence the responsibility for bush fire matters will revert back to Rangers. The draft local law presented to Council has been drafted to eliminate the need to publish the Fire Control Order in the future.

The purpose and effect of the amending draft is to eliminate the need to construct a firebreak 2 metres in width around the boundaries of land that is 2032m<sup>2</sup> or less in area. In the past, firebreaks constructed to the prescribed standard in the residential area have been a source of complaints due to the pollution caused by the dust blowing around. The amending draft will dispense with the complaints regarding pollution problems caused by dust. This will be achieved by requiring owners or occupiers of land 2032m<sup>2</sup> or less in area to slash or mow the land clear of all flammable matter to a height of no more than 50 millimetres and the land is to be maintained in this state from October to May each year. In addition, it is expected that the number of complaints received in built up areas from neighbours of vacant land in relation to smoke nuisance will also decrease dramatically. Also, such will eliminate the need to implement measures under section 3.25 of the Local Government Act 1995, requesting landowners to remove all overgrown vegetation from vacant land.

The requirements for land that is greater than 2032m<sup>2</sup> in area remains the same. That is, a 3 metre wide firebreak is to be constructed



immediately inside all external boundaries of the property, immediately surrounding all buildings situated on the land and all fuel dumps and ramps on the land.

Landowners can make application to construct a firebreak in an alternative position if it is not practical to construct the firebreak as aforementioned and if the application is granted, such remains in force until the ownership of the land changes.

In an endeavour to control smoke pollution, it will be unlawful for a person on any land that is 2032m<sup>2</sup> or less in area to set fire to or cause to be set on fire, any rubbish, refuse or other material. For land that is greater than 2032m<sup>2</sup> in area, there are specific requirements for setting fire to rubbish, refuse or other material.

The purpose of amending the heading of section 8.26 is to bring it in line with the Australian Standard on signs and the variation to the dimensions of a sign permitted is to allow for the increase in the number of letters on the sign.

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

Key Result Area "Maintaining Your Community Facilities" refers.

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

N/A

#### **Legal Implications**

Bush Fires Act 1954, and Section 3.12 of the Local Government Act 1995, refers.

#### **Community Consultation**

The public will be informed by an advertisement placed in *The West Australian* advising that Council is proposing to amend its Local Laws and members of the public will be invited to present a submission in relation to the amendments.

Fire and Emergency Services Authority (FESA) has been provided with a copy of the proposal and supports the suggested amendments.

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

Nil.





**13.2 (MINUTE NO 2364) (OCM 20/04/2004) - CODES OF CONDUCT REVIEW COMMITTEE - MINUTES OF MEETING HELD 30 MARCH, 2004 (1054) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receives the Minutes of the Codes of Conduct Review Committee Meeting dated 30 March 2004, and adopts the recommendation contained therein.

**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Mayor S Limbert that Council:

- (1) receives the Minutes of the Codes of Conduct Review Committee Meeting dated 30 March 2004;
- (2) adopts the recommendations contained therein, subject to amendments to the Codes as follows:

**ELECTED MEMBERS – CODE OF CONDUCT**

**Section 4.8**

Unless not practicable, Elected Members are only to approach and seek advice from staff by:

- correspondence
- telephone
- facsimile
- email; or
- appointment

**Section 4.12**

Unless not practicable, Elected Members shall enter the staff work areas of the Administration Building after requesting and receiving approval from the Chief Executive Officer, a Director or relevant senior staff member.

**Section 5.1**

Unless acting in an authorised capacity as a Council spokesperson pursuant to the Local Government Act, 1995:

- (a) Councillors shall not speak, attempt to speak or give the perception of speaking on behalf of the local government; and
- (b) Councillors should ensure that statements made to the media are identified as their opinions only and do not necessarily represent the position of Council.

**STAFF – CODE OF CONDUCT**

Section 4.10

Relevant staff shall accommodate all reasonable requests from Elected Members to meet with them to discuss Council-related matters in order to assist the Member(s) to fulfil their duties.

Section 4.11

Unless not practicable, staff shall only enter the Elected Members' area of the Administration Building after requesting and receiving approval from the Mayor, Deputy Mayor or Councillor.

- (3) directs the Chief Executive Officer to make certain that all members of Council's staff are provided a copy of the amended staff code of conduct.

**CARRIED 8/0**

**Explanation**

Elected Members – Code of Conduct

Sections 4.8 and 4.12 improves clarity of the section.

Section 5.1 – There may be situations when Councillors could be required to speak on behalf of Council, should the Mayor be unavailable, unable or unwilling to perform this function, in which case the Act provides the required processes to be followed.

Staff – Code of Conduct

Sections 4.10 and 4.11 improves clarity of the section.

The staff Code of Conduct is used as a performance measure for employees. Council needs to ensure that any amendments to the code are therefore clearly communicated to staff in order to ensure compliance.

**Background**

The Inaugural Meeting of the Committee was conducted on 30 March 2004, to review the Codes as required pursuant to sec. 5.103(2) of the Local Government Act, 1995.

**Submission**

N/A



**Report**

Refer to Committee Minutes. In summary, a number of cosmetic changes were recommended to both Codes. In addition, it is recommended that Clauses be inserted to ensure adherence to media and external communication requirements and with Council's Standing Orders Local Law in relation to conduct to be observed at Council/Committee Meetings.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Nil.

**Legal Implications**

Sec. 5.103(2) of the Local Government Act, 1995, refers.

**Community Consultation**

N/A

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

Nil.

**13.3 (MINUTE NO 2365) (OCM 20/04/2004) - REPRESENTATION - STAKEHOLDER REFERENCE GROUPS KWINANA REFINERY PROJECTS (9808) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council nominates Councillor Reeve-Fowkes as its representative to the Stakeholder Reference Group for:-

- (a) Kwinana Long Term Residue Planning Project; and
- (b) Kwinana Emission Reduction Project (Liquid Burner)

with the Principal Environmental Health Officer as the Technical Member of the Emission Reduction Project.



**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**Background**

Alcoa has invited the City of Cockburn to be represented and participate in two separate Stakeholder Reference Groups (SRG) to assist Alcoa in meeting community expectations relating to:-

- The Kwinana Emission Reduction Project (Liquid Burner), and;
- The Kwinana Long Term Residue Planning Project.

These groups will work through Alcoa's existing Community Consultative Network (CCN) and will be the main stakeholder consulting points for Alcoa to discuss and get community feedback on these important projects.

It is anticipated that an Elected Member would be on both groups to represent the people of Cockburn. It may also be appropriate to have an Environmental officer as a member of the Emissions Project.

**Submission**

N/A

**Report**

SRG members will represent key stakeholder interests in advising Alcoa on how project issues should be identified, assessed, managed and supported. An independent facilitator will lead and coordinate the SRG's discussions.

Following the advice from Alcoa, Elected Members were provided with the information and requested to register their interest in participating on the SRG. Councillor Reeve-Fowkes has expressed a desire to be nominated.

An illustration of the proposed consultative process and stakeholder interaction is attached.

**Strategic Plan/Policy Implications**

Key Result Area "Conserving and Improving Your Environment" refers.



**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

Nil.

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

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (MINUTE NO 2366) (OCM 20/04/2004) - PROPOSED SCHEME AMENDMENT NO. 16 - LOT 858 BANINGAN AVENUE, SUCCESS - OWNER: GOLD ESTATES OF AUSTRALIA PTY LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES PTY LTD (93016) (JLU) (ATTACH)**

**RECOMMENDATION**

That Council:

(1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

AMENDMENT NO. 16

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 858 Banning Avenue, Success from 'Local Centre' Zone to 'Residential' Zone with a residential density coding of R40;
2. Amending the Scheme Map accordingly.

Dated this ..... day of ..... 2004.

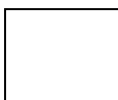
Chief Executive Officer

- (2) sign the amending documents, and advise the WAPC of Council's decision;
- (3) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 7(A)(1) of the Town Planning and Development Act;
- (4) following 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 WAPC;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;
- (6) following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not to proceed with the Amendment; and
- (7) advise the applicant of Council's decision and the following:
  - Council will not support the construction of a retaining wall along Hammond or Bartram Roads above 3m in height;
  - Council supports the reduction of the POS requirements for the subject lot from 3,240m<sup>2</sup> to 2,620m<sup>2</sup> in accordance with Western Australian Commission Policy DC 1.3 – Strata Titles. The POS requirement is to be provided as cash-in-lieu.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**



## Background

ZONING:	MRS:	Urban
	DZS:	Local Centre
LAND USE:	Vacant	
LOT SIZE:	1.2402ha	
AREA:	N/A	
USE CLASS:	N/A	

## Submission

On 13 January 2004, Council received a request from Development Planning Strategies Pty Ltd, acting on behalf of the owners of Lot 858 Banning Avenue Success, to rezone the subject lot from 'Local Centre' to 'Residential' with a residential density coding of R40 (see locality plan in Agenda attachments). The rezoning will facilitate a 38 lot private strata development on the site.

Following preliminary consideration of the proposal and modifications to the Amendment document, the applicant re-lodged the request on 17 February 2004.

## Report

Lot 858 is identified in the Thomson's Lake Local Structure Plan (LSP) as a 'Local Centre Site' intended to cater for the local shopping requirements of future residents within the western sector of the Thomson's Lake Precinct. The LSP also identifies a requirement for the land owner to cede a 2,000m<sup>2</sup> portion of the site to the City free of cost for 'Community Purposes'. This obligation is the subject of a legal agreement with Council and is reflected in the Public Open Space (POS) schedule included in the LSP.

### Residential development of the lot

Given Council's intentions to consolidate the major sporting and community facilities on Reserve 7756 Hammond Road to the south of the subject lot, and the overwhelming success of the Gateways Regional Shopping Centre, there is no need for additional shopping or community facilities in this location. Therefore the site is proposed to be developed for residential purposes.

The proposed R40 density of the development seeks to maximise the potential of the site which abuts a large existing area of POS and has access to public transport along Hammond Road. The site is also located within close proximity and can easily gain access to a district shopping centre, future district level playing fields and educational facilities. A concept plan has been prepared for the development of the site showing up to 38 survey strata lots, ranging in size between 220m<sup>2</sup>



and 308m<sup>2</sup> with an average lot size of 237m<sup>2</sup> (see concept plan in Agenda attachments). The proposal will add to the diversity of residential lot product currently available and will assist in accommodating the changing demographic structure of the City.

#### POS and community facilities

Given the majority of this area has been developed and Lot 858 is immediately adjacent to a large existing POS reserve, Council Officer's support the provision of the 2,000m<sup>2</sup> community purposes site as cash-in-lieu. A further POS contribution or payment equating to approximately 1,240m<sup>2</sup> will also be required given that the local centre site was previously excluded from the total POS calculations for the Thomsons Lake precinct on the basis that the land would not be used for residential purposes. Therefore the total POS contribution is 3,240m<sup>2</sup>.

Notwithstanding the above, the concept plan shows a private POS area of 694m<sup>2</sup>. The applicant has requested that a 50% reduction to the 10% POS requirement be given for the 1,240m<sup>2</sup> component in accordance with WAPC Policy No. DC 1.3 – Strata Titles clause 3.3.3. This effectively would reduce the landowner's POS obligation from 3,240m<sup>2</sup> to 2,620m<sup>2</sup>.

Whilst this is a matter that will be addressed through the subdivision process, it is recommended that the Council provide guidance to the applicant on what POS provisions are expected from the development of the subject lot. Notwithstanding that there is a large area of POS adjacent to the site, it is considered that the inclusion of a small area of POS within the development will provide increased amenity for the small lots. That area shown on the plan is considered adequate and Council Officer's support the reduction of the POS obligation to 2,620m<sup>2</sup> which is to be provided as cash-in-lieu as proposed by the applicant. The cash-in-lieu funds should be used for the development of recreation facilities on Reserve 7756 Hammond Road which is that land around the fire station just to the south of the subject land.

#### Jandakot Groundwater Treatment Plant

In July 2003, Council was advised by the Water Corporation that the odour and chlorine buffer from the Jandakot Groundwater Treatment Plant, to the south of the subject lot across Bartram Road, which previously affected the subject land, no longer exists as a result of upgrading of the Treatment Plant. This buffer was a major influence behind designating the subject lot for commercial development.

#### Servicing

To provide reticulated sewer to the lot, there is a need to raise the south-west corner of the site. As a result, the applicants have indicated





that a retaining wall between 4.5m and 5.5m will need to be constructed along Hammond Road and may extend along Bartram Road. Council Officers do not support the construction of such a high retaining wall along Hammond Road due to the visual impacts the wall will have on the surrounding area.

The applicant has indicated that a further option could be to stage the development and connect those lots in the south-west corner to either a private pumping station or delay the development of these lots until such time as the sewer line to the west of the site is extended within the Hammond Road Reserve. This would reduce the height of the retaining wall to around 3m.

Again, whilst this is a matter that will be addressed through the subdivision and development process, it is recommended that Council advise the applicant that it would not support the construction of a retaining wall exceeding 3m in height along Hammond or Bartram Roads.

### Conclusion

It is recommended that Council supports the initiation of the rezoning of Lot 858 Banning Avenue, Success from 'Local Centre' to 'Residential' with a residential density of R40 for the following reasons:

- The need and long term viability of the site for commercial purposes is questionable given the close location of Gateways District Centre to the north.
- Part of the site is no longer needed for community purposes.
- The buffer to the Jandakot Groundwater Treatment Plant no longer constrains the development of the site for residential purposes.
- The proposal will add to the diversity of lot sizes currently available in the area.
- The owner has agreed to the provision of POS requirements in the form of cash-in-lieu and a small area of private POS in accordance with Council and Commission Policy.

### **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."*

The Council Policies which apply to this item are:-

SPD4 'Liveable Neighbourhoods'  
APD4 Public Open Space

### **Budget/Financial Implications**

Council Officers recommend that the POS obligation of 2,620m<sup>2</sup> be provided as cash-in-lieu. The valuation of the land will be carried out in accordance with the Town Planning and Development Act when the land is subdivided, however given current sales within the area, the cash-in-lieu is likely to be in the range of \$105,000 to \$115,000. Development of the land may not occur for a number of years and there may be an increase in the value of land in the area affecting the amount to be provided as cash-in-lieu. These funds will be placed in the POS Trust Account for spending in the locality in the future in accordance with Western Australian Planning Commission Policy.

### **Legal Implications**

Nil

### **Community Consultation**

The Scheme Amendment will be advertised in accordance with the Town Planning Development Act and Regulations (as amended).

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

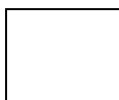
Nil.

## **14.2 (MINUTE NO 2367) (OCM 20/04/2004) - UNAPPROVED LAND USE - CSL 489; LOT 16 AND LOT 5 SUDLOW ROAD, BIBRA LAKE - OWNER: LORIAN NOMINEES PTY LTD (1117499) (DB) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) instruct Council's solicitor to commence legal proceedings against the owners of Lot 16 and Lot 5 Sudlow Road, Bibra Lake for a breach of the City of Cockburn Town Planning Scheme and the Town Planning and Development Act 1928;



and

- (3) withdraw legal proceedings should the use discontinue, subject to Council's legal costs being paid.

**COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**Background**

ZONING:	MRS:	Industrial
	TPS:	Industry
LAND USE:	Blending plant	
LOT SIZE:	3275m <sup>2</sup>	
AREA:		
USE CLASS:	"P"	

The subject property, Lot 16 Sudlow Road, Bibra Lake, and an adjoining lot owned by another party Lot 5 Sudlow Road, has been the subject of several legal disputes over the past four years with the City and the owner of Lot 16, in relation to unlawful activities and non-compliance with conditions of planning approval.

It has recently come to the City's attention that an additional use is being carried out on the subject property and the adjoining Lot 5 which has not received the prior planning approval of the Council. The use, in essence is a garden supply centre, however it appears this has spread over half of the land area of the two properties.

The Directors of Lorian Nominees were subsequently advised of this breach and were instructed on the 15<sup>th</sup> of August 2003 to cease the use or apply for planning consent so that the use could be legitimised and be allowed to carry on. A development application was made on the 26<sup>th</sup> of September 2003, which was deficient. The owner was advised of the deficiencies in question and was asked to provide the information. This information had not been received by the 60 day statutory deadline and was deemed refused by virtue of the operation of clause 10.9.1 of Town Planning Scheme No. 3 ("TPS3").

Notwithstanding this refusal, the use is continuing on the subject Lot 16 and the adjoining Lot 5, in contravention of the TPS3.



## **Submission**

The owner of Lot 16, through his solicitor, has asserted that he has attempted to purchase the adjoining Lot 5 from the current owners, Elders GM Properties Ltd, for the past four years. A contract of sale was entered into in 2000 for Lorian to purchase Lot 5 from Elders, which has been fraught with legal difficulties relating to the transfer of land.

The ownership of Lot 5 is in the name of a company that has now been deregistered by the Australian Securities and Investments Commission. To further add to the difficult nature of the transfer, the Directors of the company are deceased, meaning that no authorised signatories exist to deal with the disposal of assets from this defunct company.

The owner's solicitor contends that this difficulty has meant that Lorian Nominees is unable to lodge a development application, signed by the owner of the land, as it is not the owner and an authorised signatory of the deregistered company cannot be located.

## **Report**

The difficulty that Lorian Nominees has been experiencing in relation to this property acquisition is recognised. However, this does not waive Lorian's requirement to comply with the Town Planning Scheme.

If the company concerned was or is not able to secure ownership of Lot 5, and is unable to obtain an authorising signature to use or lease the land, then it should not use it. Yet the company commenced carrying out the use in contravention of the Scheme, and was directed to make a development application for the use, which was refused. The use still continues. If complex land ownership issues are preventing Lorian from obtaining permission from the registered owner to use the land, then Lorian should simply seek approval to use industrial land elsewhere in the District.

The land ownership matter which has been used by the company and its solicitor as a basis for challenging the City's planning requirements is considered irrelevant to the City and does not excuse Lorian for having to obtain planning approval for the use. As the use is continuing it is recommended that instructions be issued to Council's solicitor to commence legal proceedings pursuant to section 10AB(1)(a) of the Town Planning and Development Act 1928.

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

The Council Policies which apply to this item are:-

**APD29 DEVELOPMENT COMPLIANCE PROCESS**

One notice or "direction" has been issued. A subsequent warning letter has not been sent to the owner. As this matter has become rather protracted, it is recommended that the requirements of APD29 are set aside and legal action be commenced without delay.

The provisions of section 10 of the *Town Planning and Development Act 1928* allow Council to prosecute a person or persons regardless of whether or not a direction to cease the unlawful activity has been issued.

**Budget/Financial Implications**

Commencing legal action will require the use of funds from the City's legal expenses budget. If successful, the City will be able to recover expenses from the defendant.

**Legal Implications**

Town Planning and Development Act 1928  
City of Cockburn Town Planning Scheme No. 3

**Public Consultation**

N/A



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

Nil.

**14.3 (MINUTE NO 2368) (OCM 20/04/2004) - CROWN EASEMENT TO WATER CORPORATION RESERVE 26870 - AZELIA ROAD, SPEARWOOD (2202282) (KJS) (ATTACH)**

**RECOMMENDATION**

That Council consent to the registration of a Cown easement over approximately 430 square metres portion of Reserve 26870 Azelia Road, Spearwood, to the Water Corporation for pipeline purposes.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**Background**

The Water Corporation have constructed a sewer line across Reserve 26870 as part of an infill sewerage project.

**Submission**

A written request has been received from the Water Corporation for the City to consent to the registration of an easement over the reserve.

**Report**

The easement will not have any impact on current or future utilisation of the reserve. The area above the pipe work is mostly grassed area on a slope up to the bowling greens on Lot 101 Dalmatinac Park. It is unlikely that the area will be used for anything but passive recreation.

The crown easement will benefit the Water Corporation and burden the Crown Reserve 26870.

The Department for Planning and Infrastructure as the state government department responsible for crown land require that the City of Cockburn as the holder of the Management Order for the reserve give its consent for the registration of the easement.



### Strategic Plan/Policy Implications

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

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

### Budget/Financial Implications

N/A.

### Legal Implications

Nil.

### Community Consultation

N/A.

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

Nil.

**14.4 (MINUTE NO 2369) (OCM 20/04/2004) - PROPOSED STRUCTURE PLAN - PT LOT 203 BALER COURT, BANJUP AND LOT 22 RUSSELL ROAD, HAMMOND PARK - OWNER: HIGHRISE PTY LTD AND CITY OF COCKBURN - APPLICANT: JOHN CHAPMAN TOWN PLANNING CONSULTANT (9665) (MD) (ATTACH)**

#### RECOMMENDATION

That Council:

- (1) receive the Local Structure Plan and Report for Pt Lot 203 Baler Court and Lot 22 Russell Road, Hammond Park;
- (2) advise the applicant that Council is prepared to adopt the Proposed Structure Plan for Lot 203 Baler Court and Lot 22 Russell Road subject to:-
  1. Modifying the Structure Plan Report to state the applicant will undertake revegetation and implement weed control within the 30 metre wetland vegetation buffer to the satisfaction of Council.
  2. Removing any reference within the Structure Plan Report to the conceptual Residential Grouped Dwelling Development Site Plan.



- (3) adopt the Schedule of Submissions as contained in the Agenda attachment and advise the Western Australian Planning Commission and those persons who made a submission of Council's decision; and
- (4) advise the applicant of the comments and recommendations received from pertinent government authorities that will be relevant to the preparation of plans at the subdivision stage.

**COUNCIL DECISION**  
 MOVED Clr S Limbert SECONDED Clr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**Background**

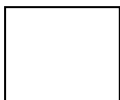
ZONING:	MRS:	Urban
	DZS:	Development
LAND USE:	Existing 2 Grouped Dwellings	
LOT SIZE:	Pt Lot 203: 35275 m2 ha & Pt Lot 22: 3167 m2	
AREA:	N/A	
USE CLASS:	N/A	

**Submission**

In February 2004, the City received a proposed structure plan for Pt Lot 203 Baler Court, Hammond Park and Lot 22 Russell Road, Hammond Park.

The proposed structure plan covers an area of approximately 3.8 ha and includes two lots, Lot 22 being currently owned by the City of Cockburn. The application is summarised as follows:

- The proposed structure plan provides a framework for future residential subdivision at an R40 Density.
- The proposed area zoned R40 under the structure plan may provide for approximately 69 grouped dwelling units.
- The plan proposes to give up approximately 1.5 ha of land free of cost for the purposes of conservation and public open space.





## Report

### Justification for R40 Development

It is considered that the proposed R40 residential density under the structure plan is appropriate for the following reasons:

- The site is approximately 80m from the future park & ride facility and 500m from the proposed train station.
- A proposed Dual Use Path (DUP) will provide a future safe link between the site, train station and future development to the south.
- The site is located approximately 120 metres from the intersection of the Kwinana Freeway and Russell Road, allowing the site direct access to the Freeway.
- The site is in close proximity to future commercial precincts located on the corners of Russell Rd and Hammond Rd and the corner of Gibbs Rd and Lyon Rd.

### Site Constraints

The two main development constraints identified for the subject site are as follows:

#### (1) Piggery Noise Buffer

A 'Daytime Pig Feeding (LA1) and Tractor Noise Buffer' affects the subject site as shown on the plan included as an attachment to the Agenda. The piggery to which the buffer relates is located on Lot 15 Lyon Road, Aubin Grove, which is approximately 300 metres from the subject site.

The buffer affects in excess of 50% of the site. No subdivision or development of that section of the land with the buffer will be supported until the piggery has closed down or the buffer is revised.

#### (2) Multiple Use Category Wetland

A Multiple Use Category Wetland is located in the north west portion of the lot. The wetland has been included within the Conservation Area under the proposed structure plan and a 30m fringing vegetation buffer has been included within public open space.

The Department of Environment and Council's Environmental Services have assessed and agreed to the extent and location of the 30m buffer shown on the proposed structure plan.

### APD28 – Public Open Space Credit Calculations



The proposed structure plan fails to provide public open space in accordance with the City's Public Open Space Credit Calculations policy. The calculations are summarised below:

The proponent would normally be required to provide 10% (3855m) of the site as public open space (POS). The wetland vegetation buffer included in the applicant's calculations exceeds the maximum 20% public open space credit allowed under the City's policy. Calculated in accordance with the City's policy, the proposal provides 2638.8m<sup>2</sup> of POS, which is 1216.2m<sup>2</sup> or 3.16% short of the required amount.

Given that approximately 40% (15483 m<sup>2</sup>) of the site area will be given up free of cost under the proposed structure plan for the purposes of conservation and public open space, it is recommended that Council exercises its discretion to support a variation to the policy requirements.

Council's Engineering and Environmental Services have provided written comment on the proposed structure plan. The comments are contained in the Schedule of Submissions.

A Western Power easement has been identified on the proposed structure plan along the eastern boundary of the subject land to appropriately address buffer impacts to future development.

All the submissions are detailed in the Schedule of Submissions included as an attachment to the Agenda. The matters raised are satisfactorily addressed in the Schedule and no further comment is required.

### Lot 22

Lot 22 Russell Road, Hammond Park is owned by the City of Cockburn. The City as the landowner has not made any commitment to the proponent to sell Lot 22 Russell Road.

### Conclusion

No significant issues were raised through the advertising of the proposal and it is recommended that Council adopt the proposed structure plan for Pt Lot 203 Baler Court, Banjup & Lot 22 Russell Road, Hammond Park.

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

The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD4	'Liveable Neighbourhoods'
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

### **Budget/Financial Implications**

The structure plan involves Council owned land (Lot 22). The land may be subject to future negotiations with the proponent to purchase the land.

### **Legal Implications**

Nil

### **Community Consultation**

The following public consultation steps were undertaken:

- Advertised for public comment from 3 March 2004 to 24 March 2004;
- Advertisement placed in The Cockburn Gazette on 2 March 2004;
- The application was referred to surrounding property owners and relevant government authorities. Alinta Gas, Western Power, Main Roads and the Department of Environment provided comment.

The proposed Structure Plan was advertised for public comment for a period of 21 days, with the comment period ending on the 24 March



2004. Surrounding land owners and government agencies were invited to comment on the proposal. The proposal was also advertised in 'The Cockburn Gazette' on the 2 March 2004.

Two submissions were received from adjoining landowners and comments were received from Alinta Gas, Western Power, Main Roads and Department of Environment – Water and Rivers Commission.

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

Nil.

**14.5 (MINUTE NO 2370) (OCM 20/04/2004) - LAND SALES PROGRAM 2004 - 2010 (4809) (SMH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the Land Sales Program 2004 –2010 as attached to the Agenda, as the basis for:-
  1. preparing a detailed Land Management Strategy for 2004 to 2014 and beyond;
  2. proceeding with the preparation of Business Plans for the:-
    - (i) development and sale of Lot 5 Bartram Road, Success;
    - (ii) development and sale of Lot 101 Birchley Road, Beeliar;
  3. proceeding with the purchase of Lot 29 adjoining the City owned Lot 621 Beeliar Drive, Munster;
  4. the funds to be used for (2) 2.(i), (ii) and 3. above be drawn from the Land Development Reserve Fund;
  5. funds received from the sale of land are to be paid into the Land Development Reserve Fund.

**COUNCIL DECISION**

MOVED C/r S Limbert SECONDED C/r I Whitfield that Council:

- (1) receive the report;



- (2) adopt the Land Sales Program 2004 –2010 as attached to the Agenda, subject to amending the heading of the attachment to read Land Sales Program 2004 – 2010 and to use the program as the basis for:
1. Preparing a detailed Land Management Strategy for 2004 to 2014 and beyond.
  2. Proceeding with the preparation of Business Plans for:
    - (i) Development and sale of Lot 5 Bartram Road, Success.
    - (ii) Development and sale of Lot 101 Birchley Road, Beeliar.
  3. Proceeding with the purchase of Lot 29 adjoining the City owned Lot 621 Beeliar Drive, Munster.
  4. The funds to be used for Clause (2), Sub-Clause 2(i) and (ii) and Clause (3) above and be drawn from the Land Development Reserve Fund.
  5. Funds received from the sale of land are to be paid into the Land Development Reserve Fund.

**CARRIED 8/0**

### **Explanation**

The Agenda attachment for Item 14.5 is currently titled 'Land Portfolio - Possible Cash Flow'. To avoid confusion, the title of the Agenda attachment needs to be amended to read 'Land Sales Program 2004 - 2010' as referred to in Clause (2).

### **Background**

A financial plan for the future development of community infrastructure over the next 10 years has been prepared.

To achieve the provisions of the plan, it is proposed that the City sell a number of freehold properties from its land portfolio.

### **Submission**

The Council has requested that a land sales program be prepared which identifies an indicative “cash flow” to supplement the likely



expenditure required to meet the need for community infrastructure over the next ten years.

**Report**

A detailed Land Management Strategy has yet to be prepared for the identification, development, marketing and sale of City owned land. However, an indicative program has been prepared based on known land sales opportunities. This will enable the development, marketing and sales of some land to be commenced, and also to provide a basis for developing a detailed Strategy.

As at 1 July 2004, it is estimated that there will be \$2,872,638 in the Land Development Reserve Fund, following the sale of 9 residential lots in the Magnolia Gardens Residential Estate and Lots 95 and 101 Howson Way to PIHA Pty Ltd.

In summary, the following estimates have been made in respect to the monies required in relation to facility development and land development, together with the expected proceeds from the sale of land.

Year	Facility Construction Cost	Land Development Cost	Sale Proceeds	Account Balance
2004/05	\$1,300,000	\$2,050,000	\$1,240,000	\$762,638
2005/06	\$2,300,000	\$1,970,000	\$5,520,000	\$2,012,638
2006/07	\$230,000	\$2,050,000	\$1,280,000	\$1,012,638
2007/08	\$250,000	\$1,570,000	\$11,720,000	\$10,912,638
2008/09	\$3,750,000	0	0	\$7,162,638
2009/10	\$300,000	0	0	\$6,862,638
<b>Total</b>	<b>\$8,130,000</b>	<b>\$7,640,000</b>	<b>\$19,760,000</b>	<b>\$6,862,638</b>

**\$12,120,000 (Net sales return)**  
**\$3,990,000 income over total costs**

In summary it can be seen that over the next 6 years the Council intends to spend \$8.1 million on new community facilities and infrastructure.

To supplement the funding of these proposed facilities it is expected that around \$12.1 million can be generated from land sales, after expending \$7.6 million on the development of the land.

The residue of funds generated by land sale in 2009/10 will be in the order of \$3.9 million which will increase the balance of the Land Development Reserve Fund to \$6.8 million, as a basis for reinstatement or a source of further capital works.

A copy of the Land Sales Program is attached to the Agenda.



## Strategic Plan/Policy Implications

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost effective without compromising quality."*
  
4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*
  
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."*

## Budget/Financial Implications

This is the purpose of the report.

The Land Development Reserve Fund has a current balance of \$1,313,882 and by the end of the financial year is projected to contain \$2,872,638, as a result of land sales which will be finalised before the end of the financial year.

Balance		\$1,313,882
Sale of Howson Way Lots 95 and 101		\$1,400,000
Sale of 9 lots Magnolia Gardens		\$1,082,638 (average \$120,293 each)
New Balance		<u>\$2,482,638</u>
Less purchase of Lots 22 and 24 Imlah Court	-	\$ 390,000
Estimated Balance 1/7/04		<u>\$2,872,638</u>

In order to fund future community infrastructure without the need for loan funds, it will be necessary to sell a number of Council's land holdings as outlined in the report.



### **Legal Implications**

Land transactions are to be in accordance with section 3.59(2) of the Local Government Act, 1995.

### **Community Consultation**

Future community consultation is required in the preparation of Business Plans for the sale of the land.

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

Nil.

## **14.6 (MINUTE NO 2371) (OCM 20/04/2004) - PRIVATE SWIMMING POOL INSPECTIONS (3211) (JW) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) Implement an ongoing in-house private swimming pool inspection program commencing 2004/2005; and
- (3) set the private pool inspection levy at \$13.75 per annum per pool owner.

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

### **COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr A Tilbury that Council:

- (1) receive the report;
- (2) investigate the implementation of an ongoing in-house private swimming pool inspection program commencing 2005/06;
- (3) seek legal advice to determine if the pool levy can be raised bi-annually; and
- (4) receive a detailed report, on this matter, as part of the 2005/06 budget process.

**CARRIED 8/0**





**Explanation**

To impose a levy in 2004/05 having just undertaken inspections would cause an undue financial impact and angst amongst ratepayers.

Delaying the start of the in-house inspection program will give time to examine the issue fully and allow Council to give further consideration to the whole pool inspection matter.

**Background**

The Local Government (Miscellaneous Provisions) Act 1960 requires that all private swimming pool barriers be inspected at least once every 4 years. This has been a requirement since 1992. The Local Government may levy the pool owner up to a maximum \$55 (including GST) within a four-year period, to recover cost to carryout inspections.

The swimming pool legislation requires private swimming pools to be inspected by authorised persons to ensure that pool fencing/gates and barriers comply with the Building Regulations 1989 and Australian Standards.

At the June 2003 Council Meeting, Council appointed the preferred contractor for the 2004 round of inspections and it was also resolved;

*“That Council:*

- 5) *request the preparation of a report on the possible change from the contract private pool inspection program once every four years, to an ongoing in-house inspection program commencing in the financial year 2004/2005, for further consideration by Council”*

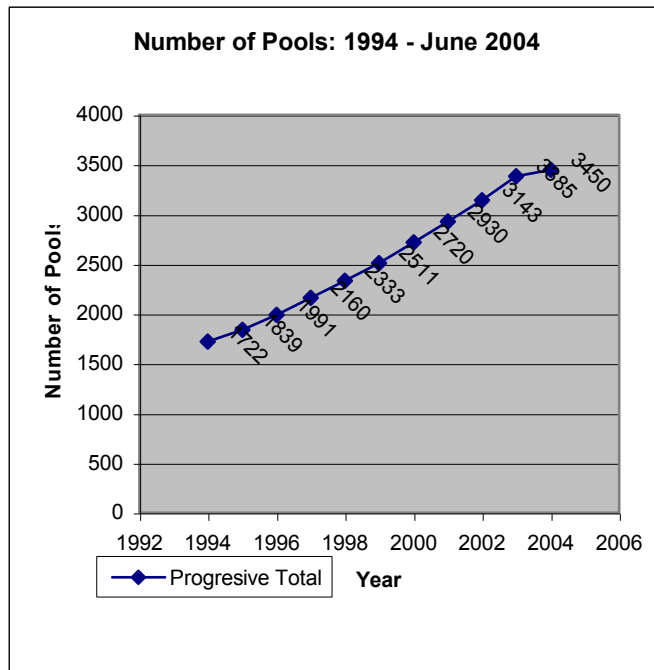
**Submission**

N/A.

**Report**

The number of swimming pools within the City has been steadily increasing from 1722 in 1994, and should reach an estimated 3450 by June 2004.





The number of private pools has increased to a point where an in-house inspection program after June 2004 needs to be considered.

A survey of other Local Authorities in April 2003 indicated other similar Local Authorities had ongoing inspection services (see attached survey of other Local Authorities).

It is proposed the City employ a swimming pool inspection officer and provide a motor vehicle from July 2004, to facilitate inspection of one quarter of all private pools within the city on an annual basis, so as to achieve inspection of all pools over a four-year period.

The benefits of having a dedicated private swimming pool inspection officer are:

- An ongoing service can be provided.
- Pre approval and post installation inspections of pool barriers can be carried out.
- An accurate data base of pools can be maintained at all times.
- When a property is sold, pool barriers requiring upgrading under legislation may be inspected.

The current once every four-year inspection process is somewhat ad-hoc, with very little follow up of new pools installed between inspections every fourth year, due to limited resources.



The Pool Inspection Program is currently only undertaken once every four years. During this time, owners may have removed a pool but the City is not advised by the pool owner until up to four years later when the levy again appears on the owner's rate notice. An ongoing inspection program would include levying pool owners every year which would mean persons would likely notify the City within the year a pool has been removed so as to avoid an annual levy.

Anyone who uses a private pool within the City or indeed persons who visit a pool owner within the City would be beneficiaries of the proposed service. Pool owners, property purchasers, real estate agents may also seek to use the service on a user pays basis (non statutory inspections), prior to a property being settled or sold.

If the City continues to operate the pool program on the current basis in 2007/08 (next round of inspections) private pools are likely to number 4000 and probably more. With such a large number of pools to be inspected there may be few organisations that could provide the required inspections in a single year. This was revealed during the tender process for the current round of inspections when only two contractors tendered in reply to the initial request for tender. The second tender attracted four tenderers, however, the same two tenderers were the only competitive tenderers. It was noted that contractors generally had difficulty in obtaining the necessary level of professional indemnity insurance. This would not be of concern with an ongoing in house program.

Initially it is estimated the swimming pool inspection officer would commit 38 weeks to the pool program out of 48 weeks (see attachments). This would increase over time as pool numbers increase. The balance of the officer's time would be used to undertake scanning of building plans.

The estimated net increase in the number of pools per year 180, is conservative. In 2003, 246 Building Licences were issued for new pools. Pools are also removed each year. Evidence from the data of the current round of inspections confirms that around 1.25% of all pools are removed each year (ie  $3450 \times 1.25\% = 43$  pools).

With the best estimates and growth details from the database and the continued growth the City is likely to continue experiencing, the time is appropriate to implement an ongoing pool inspection program.

### **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 competitive without compromising quality."*
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
  
4. Facilitating the needs of Your Community
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

### **Budget/Financial Implications**

It is intended to levy all pool owners \$13.75 every year (max \$55 over 4 years) to cover the estimated cost of swimming pool inspections in each year. In doing so this would mean that the City would achieve steady income to support the ongoing inspection program. Should a pool be removed at any time, it is highly likely that an owner would advise the City within the year. The owner receiving their rates notice inclusive of the pool levy would prompt this. Currently an owner may remove a pool in the year of the inspection and levy and then not pay the levy. This is somewhat inequitable on other pool owners.

To set the ongoing program up in 2004/2005 the cost is estimated at \$70,865 (see attachments). Income in the first year is estimated at \$46,500 leaving a deficit of \$24,365. It is likely at the completion of the current pool inspection program in June 2004, \$20,000 that was included for contract administration support could be carried over to reduce the setup costs in 04/05.

In the next few years the annual short fall to operate the inspection program will be minimal as set out in the spreadsheet attached to the Agenda.

The swimming pool officer would be involved in the approval process of building applications for new pools. It is estimated that 225 applications a year will be received. On this basis \$15 of the application fee could be credited to the pool inspection program - 225 pool licences x \$15 per licence = \$3375.

To allow the program to commence in 2004/05 a levy of \$13.75 (GST inclusive) would need to be applied to all properties with pools in the City.

### **Legal Implications**

Local Government (Miscellaneous Provisions) Act 1960, Section 245A.



Enquires have been made with Council's Solicitor's to obtain comment on the proposal to levy all pools with properties annually, while only inspecting a quarter of all pools each year (see attachments). The Solicitor's opinion is that the City can apply the pool levy annually. The total levy over the four-year period could not exceed the maximum \$55 (GST inclusive) or \$13.75 annually.

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

Nil.

#### **14.7 (MINUTE NO 2372) (OCM 20/04/2004) - EASEMENT OVER PORTION OF LOT 9053 BARTRAM ROAD, SUCCESS, TO WESTERN POWER CORPORATION - GOLD ESTATES LTD (6000474) (KJS) (ATTACH)**

##### **RECOMMENDATION**

That Council grant Western Power Corporation 2 easements over Lot 9053 Bartram Road, Success, subject to:-

- (1) the value of the disposition being ratified by a Licensed Valuer appointed by the City of Cockburn; and
- (2) the Licensed Valuers fees and the advertising fees as required pursuant to section 3.58 of the Local Government Act, 1995, being met by the proponents.

##### **COUNCIL DECISION**

MOVED Clr A Tilbury SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 8/0**

#### **Background**

Gold Estates are currently developing lot 9054 Bartram Road as a residential subdivision known as Magnolia Gardens Stage 3. Lot 9053, which is owned by the City of Cockburn in freehold, intersects this lot and it has a piped and open drain within it.

#### **Submission**

PGS Hope & Partners Pty Ltd, Surveyors acting for Gold Estates, have written to the City seeking the City of Cockburn's consent for two (2)



easements over its land. The easements will be in favour of Western Power Corporation to protect underground power installations.

### **Report**

Western Power is not a department, agency or instrumentality of the crown. As such it is not exempt from the provisions of section 3.58 of the Local Government Act 1995.

Section 3.58 of the Local Government Act, 1995 requires that the value of the disposition be determined by a Licensed Valuer and that the proposed disposition be advertised statewide, inviting submissions to be made before a specified date. The date being not less than 2 weeks after the date of the notice.

The open drain within Lot 9053 serves an area which extends north-east into Banjup. Gold Estates have piped sections of the drain and plan to beautify other sections to enhance the public open space areas of the development that in general adjoin Lot 9053.

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

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

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

### **Budget/Financial Implications**

All costs are to be met by the proponents.

### **Legal Implications**

Section 3.58 Local Government Act, 1995, refers.

### **Community Consultation**

The proposal will be advertised statewide in accordance with the provisions of the Act.

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

Nil.



**14.8 (MINUTE NO 2373) (OCM 20/04/2004) - RETROSPECTIVE APPROVAL RETAINING WALLS - LOT 719; 5 AIRLIE PLACE, COOGEE - OWNER: DA & GL NORMAN - APPLICANT: D A NORMAN (3300331) (ACB) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant retrospective approval to the retaining walls, terrace and steps on Lot 719 (5) Airlie Place, 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. 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 such wall or fence is constructed with a 2 metre truncation.
4. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
5. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
6. Retaining walls being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.

**SPECIAL CONDITIONS**

7. The owner to provide a 1.6 metre high permanent screen to restrict views from the new terrace into the adjoining property being (No. 12 Howick Court) as shown on the attached plan.

**FOOTNOTES**

1. Any development is to comply with the requirements of the



- Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant;
  - (3) advise the owner that because the retaining walls have been constructed the Council is unable to issue a building licence retrospectively;
  - (4) advise the complainant of Council's decision.

**COUNCIL DECISION**  
 MOVED Clr S Limbert SECONDED Clr I Whitfield that Council adopt the recommendation subject to amending Special Condition 7 to read as follows:

7. The owner to provide a 1.6m high permanent screen to restrict views from the new terrace into the adjoining property (being No.12 Howick Court) as shown on the attached plan within three(3) months from the date of the approval.

**CARRIED 8/0**

**Explanation**

Privacy of the property owner of 12 Howick Court, Coogee needs to be in place as soon as possible.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	Residential	
LOT SIZE:	944sqm	
AREA:	N/A	
USE CLASS:	Single (R Code) House	

On 24 November 2003 the City received a complaint from the owner of No. 12 Howick Court, Coogee in regards to the construction of walls, terrace and steps at No. 5 Airlie Place, Coogee, which abuts the rear of their property.

The main concern is the overlooking from a new built up terrace at No. 5 Airlie Place and the setback of retaining walls from the rear parapet located between No. 12 Howick Court and No. 5 Airlie Place in Coogee. The complainant is of the view that the retaining walls should





be setback 1 metre from the boundary to ensure access is maintained between the walls.

On 22 January 2004, the City advised the applicant that retaining walls and any changes in level, which include fill that exceeds 500mm above natural ground on any property requires a planning and building approval from Council.

### **Submission**

On 9 February 2004 the applicant submitted a planning application for the existing retaining walls, terrace and steps. The applicant submits that at the time of providing the City with house plans for the existing residence back in 1994, the site plan showed limited detail of terracing / landscaping. A site plan and elevations are included in the Agenda Attachments.

The applicant has over the years, tried various solutions to contend with the steep terrain especially to the northern boundary. Access to and maintaining plants, shrubbery, trees, etc were unsuccessful on the slope due to wind and erosion and it was decided to terrace the slope and control the erosion and provide effective use of space for a tiered garden. The applicant further submits that the terracing does not affect the northern neighbour as there exists a roughly laid brick parapet wall varying from 3.2 to 1.8 metres in height within the neighbouring property.

### **Report**

Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3 (the Scheme), provided the development conforms to the provisions of the Scheme.

An inspection of the property was undertaken to determine whether the amenity of the adjoining property is affected as a result of the retaining and built up terrace. The outdoor living area at No. 12 Howick Court can be seen from the terrace, however, it is considered that this overlooking can be overcome by a 1.6 metre high privacy screen between the terrace at No. 5 and the adjoining boundary.

In regards to the retaining wall setback, the City has discretion to vary setback requirements in cases where amenity will not be adversely impacted on. The owner has setback the retaining walls 200mm from the boundary line. This permits access to the parapet wall. The City does not get involved with maintenance of nil boundary walls, the responsibility of which lies with the owners. It is considered that the setback of the retaining walls can be varied in this instance.



### Conclusion

No further action is recommended in respect to the unlawful development, given that the owner has now sought approval and that the existing retaining walls, steps and terrace (once screened) do not adversely affect the occupiers, inhabitants of the locality or the likely future development of the locality.

It should be noted that a building licence for the existing walls, steps and terrace cannot be issued retrospectively and the owner should be advised of this.

### **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:-

APD9	Retaining Walls
APD10	Discretion to Modify Development Standards
APD17	Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

Nil.

### **Legal Implications**

Nil.

### **Community Consultation**

This application is the result of a formal complaint lodged by the owner of the property immediately north of the subject site at No. 12 Howick Court, Coogee.

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

Nil.



**14.9 (MINUTE NO 2374) (OCM 20/04/2004) - PROPOSED SUBDIVISION RETAINING WALL - LOT 412 GAEBLER ROAD, HAMMOND PARK - OWNER: GOLD ESTATES OF AUSTRALIA (1903) PTY LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (5513387) (VM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the application for construction of a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park, 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. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. 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.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

Special Conditions

7. The design of the wall at the rear of Lot 144 to be modified, as shown as amendments in red, so that the wall continues along the entire rear boundary of Lot 144.
8. Retaining walls installed as part of a subdivision for residential development must be designed in accordance with Australian Standard AS 1170 Parts 1 and 2 - 1989,



to take live and dead loads imposed by a single storey brick and tile residence placed a minimum of 1 metre from the retaining wall boundary and the design of the retaining wall must also provide for the erection of a 1.8 metre high fibre cement fence placed on or against all boundary retaining walls to the satisfaction of the Western Australian Planning Commission.

Footnotes

1. The development is to comply with the requirements of the Building Code of Australia.
  2. The development is to comply with the *Environmental Protection Act, 1986* which contains penalties where noise limits exceed those prescribed by the *Environmental Protection (Noise) Regulations 1997*.
- (2) advise aggrieved landowners they should liaise with Australand regarding their concerns over not being notified of the possibility of a retaining wall being constructed by Gold Estates of Australia (1903) Pty Ltd prior to settlement in October 2003, given that Australand's Engineering Consultants (Development Engineering Consultants) were informed by Gold Estates of Australia's Engineering Consultants (GHD Pty Ltd) on 18 March 2003 as part of the referral of the earthworks proposal for Lot 412 Gaebler Road, Hammond Park.
- (3) issue a Schedule 9 Notice of Determination an Application for Planning Approval to the applicant; and
- (4) advise those who lodged a submission of Council's decision.

**COUNCIL DECISION**

MOVED C/r S Limbert SECONDED C/r I Whitfield that Council:

- (1) receive the report noting that reference to Lot 145 in the third paragraph of the report should read lot 144;
- (2) approve the application for construction of a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park, 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. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. 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.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

#### Special Conditions

7. The design of the wall at the rear of Lot 144 to be modified, as shown as amendments in red, so that the wall continues along the entire rear boundary of Lot 144.
8. Retaining walls installed as part of a subdivision for residential development must be designed in accordance with Australian Standard AS 1170 Parts 1 and 2 - 1989, to take live and dead loads imposed by a single storey brick and tile residence placed a minimum of 1 metre from the retaining wall boundary and the design of the retaining wall must also provide for the erection of a 1.8 metre high fibre cement fence placed on or against all boundary retaining walls to the satisfaction of the Western Australian Planning Commission.

#### Footnotes

1. The development is to comply with the requirements of the Building Code of Australia.
2. The development is to comply with the *Environmental Protection Act, 1986* which contains penalties where noise limits exceed those prescribed by the *Environmental Protection (Noise) Regulations 1997*.



- (3) advise aggrieved landowners they should liaise with Australand regarding their concerns over not being notified of the possibility of a retaining wall being constructed by Gold Estates of Australia (1903) Pty Ltd prior to settlement in October 2003, given that Australand’s Engineering Consultants (Development Engineering Consultants) were informed by Gold Estates of Australia’s Engineering Consultants (GHD Pty Ltd) on 18 March 2003 as part of the referral of the earthworks proposal for Lot 412 Gaebler Road, Hammond Park.
- (4) issue a Schedule 9 Notice of Determination an Application for Planning Approval to the applicant; and
- (5) advise those who lodged a submission of Council’s decision.

**CARRIED 8/0**

**Explanation**

Reference to Lot 145 in the report is in error and needs to be noted given Special Condition 7 specifically relates to this lot.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Development Zone – Development Area 9 – DA9
LAND USE:	Vacant land	
LOT SIZE:	overall 48.5623 ha	
USE CLASS:	Single (R-Code) House – Permitted Use	

On 8 December 2003 the previous landowner (Australand) of the lots fronting Plumwood Avenue, advised the new owners of the Plumwood Avenue lots that a retaining wall will be proposed at the rear of the existing lots. Plans of the walls were also to be sent to the new owners. Australand requested the new owners allow access to their lot for contractors to construct the rear retaining wall.

As a result of the consultation, one of the adjoining owners wrote to the City (letter dated 18 December 2003), expressing concerns over the proposed height of the retaining wall. Attached to the letter the landowner submitted Australand’s letter and a copy of the Plans. (Refer to Agenda attachments). The City contacted Gold Estates and advised that:-

*“..Earthworks proposed as part of subdivisional works under Section 20D of the Town Planning and Development Act is exempt from the*



*requirement of planning approval pursuant to the City's Town Planning Scheme No. 3. We are currently seeking advice from the Western Australian Planning Commission on whether or not planning approval from the Council is required for subdivisional retaining walls pursuant to the MRS."*

The City also asked for ideas or options to reduce the visual impact of the development.

Given that objections to the height of the retaining wall were received from adjoining landowners and that the Commission's advice has not been received, it was reasonable to request the proponent to lodge an MRS Application for Approval to Commence Development to the City. The Development enabled the City to consult with the affected owners.

The proponent agreed to lodge a Development Application to Council for a retaining wall which was received on 11 February 2004.

A report was presented to the Council Meeting held on 16 March 2004 where Council resolved to:-

- "(1) defer consideration of the application for a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park to allow negotiations between the affected landowners (objectors), the applicant and Ward Members over the height of the retaining wall;*
- (2) reconsider the application at the next Ordinary Meeting of Council; and*
- (3) advise the applicant and those who made submissions accordingly."*

A meeting was organised on 30 March 2004 on site. The meeting was attended by Councillor Ian Whitfield, adjoining landowners, who made a submission during the advertising of the application (Mr and Mrs La Hogue, Mr and Mrs M & M Ingoe) and an additional landowner who did not comment on the application (Mr J Carter), City's Principal Planner and Senior Planning Officer, Gold Estates landowner representative (Mr Alex Gregg from Richard Noble), the landowner's Town Planner (Mr David Reynolds from DPS) and the landowner's Engineer (Mr Bob Kelliher from GHD Pty Ltd). Apologies were received from Deputy Mayor Richard Graham and Councillor Amanda Tilbury.

### **Submission**

Approval has been sought for a subdivision retaining wall on Lot 412 Gaebler Road, Hammond Park. The retaining wall will abut the southern boundary of several privately owned lots along Plumwood Avenue. (Lots 143 to 150).



As part of the application the applicant's engineer has provided the following statements.

*"We confirm that the retaining wall proposed for the boundary of Lot 412 Gaebler Road and Lot 202 Russell Road has been designed to the minimum feasible height similar to the numerous walls already constructed within the Frankland Springs Estate.*

*We have already compromised by starting the proposed lots fronting Barfield Road with a finished level 500mm below the road pavement level.*

*The walls then step down away from Barfield Road to produce the minimum level lots on the current proposed plan for the Lot 412 subdivision and to match to the existing side walls in Lot 202.*

*All these walls have been designed to the standard City of Cockburn requirements."*

The retaining wall varies in height from 0.74m to 2.2m at its highest point along the rear of Lot 148 Plumwood Avenue – the objectors' lot.

Given the adjoining owners concerns, the City's Planning Department prepared some amendments for GHD to finished floor levels for 3 lots on Plumwood Avenue (Lots 146, 147 and 148). The proposed new finished floor levels will ensure that retaining wall heights from the adjoining lots will have a maximum height of 1.7 metres. This was not acceptable to GHD as this would create lots to 950mm and 1000mm below the proposed new road. (Refer attached fax from GHD dated 15 February 2004).

From the on-site meeting organised by the City on 30 March 2004 an issue regarding the information provided by the previous landowner of Plumwood Avenue lots, (Australand), to the new owners was raised. This is not a Council matter or an issue to be considered as part of Planning Application, however, the following comments are provided.

At the meeting some of the affected landowners raised the issue that Australand must have known that the retaining walls were required and why were the new purchasers not advised at the time of purchase. Council's Planning Department cannot answer the above, however, it undertook some investigations to determine the process under which the walls were to be constructed.

- On 27 June 2002 Australand's Engineer (DEC) requested Gold Estate's Engineer's (GHD) permission to batter into Lot 412 Gaebler Road as the earthworks on Plumwood Avenue lots required the land from Lot 412 Gaebler Road to be retained.





Therefore battering was extended into Lot 412 Gaebler Road.  
(Refer attachment)

- On 12 March 2003 Development Planning Strategies, Town Planning Consultants on behalf of the landowner (Gold Estates) lodged an application to Council for earthworks on Lot 412 Gaebler Road.
- As part of the application the landowner's engineers (GHD) on 18 March 2003 supplied a copy of the earthworks plans illustrating retaining walls and lots finished floor levels to Australand's engineers (DEC) for their information. (Refer attachment)
- On 16 April 2003 earthworks for Lot 412 Gaebler Road were approved under delegated authority of Council.
- On 30 September 2003 GHD faxed DEC a confirmation to the cost sharing for the retaining wall at the boundary of Lot 412 Gaebler Road. (Refer attachment)
- On 12 October 2003 Lot 148 (No. 11) Plumwood Avenue was transferred from Australand to Mr and Mrs G and T la Hogue.
- On 31 October 2003 Lot 147 (No. 9) Plumwood Avenue was transferred from Australand to Mr and Mrs M and M Ingoe.
- On 31 October 2003 Lot 146 (No. 7) Plumwood Avenue was transferred from Australand to Mr John Carter and Ms Amy O'Sullivan.

It seems that prior to the settlement of the lots to the new owners, Australand were advised by Gold Estates of the height of the proposed retaining wall.

### **Report**

The application has been referred to Council for determination as it involves an appraisal of submissions of objection received from three adjoining land owners. (Refer to Agenda attachments – 1 late submission)

The application was referred for comment to 8 adjoining owners along Plumwood Avenue in accordance with Clause 2.5.2 of the Residential Design Codes. Two submissions were received during the consultation period objecting to the proposed height on the following grounds:

- the visual bulk of the height of the wall; and
- the proposed height will decrease the value of the property



With regard to comments received after the consultation period from an adjoining lot owner (Lot 114) with regards to the location of the wall, it is reasonable for the applicant to modify the plan to ensure the wall matches the rear fence boundary and slightly decreases in height to Lot 145. This has been discussed with the applicant and the submitted plans will be modified. This can be addressed as a condition of approval.

The proposed height of the retaining wall is required to ensure lots from a proposed southern road on Lot 412 are relatively level to the proposed road. The proposed road on Lot 412 has been approved following the natural ground contours, as the road levels rise from 27 to 30 AHD. The proposed southern lots abutting the proposed retaining wall will have finished floor levels of similar heights to the proposed road or approximately 0.5 metres below the road levels.

Under the performance criteria of the Residential Design Codes development must retain the visual impression of the natural level of a site as seen from the street or from an adjoining property as reasonable.

The lots on Plumwood Avenue abutting the retaining wall were subject to earlier earthworks (excavation) to ensure that the lots were created level to the road, to minimise earthworks costs to new owners. As the land raised substantially from 25 to 30 AHD, side retaining walls perpendicular to Plumwood Avenue were constructed, however, on the rear of the lots where the retaining wall subject of this application is proposed a colourbond fence was erected instead. The natural ground level was modified to ensure the lots were sold level to the road.

#### Justification for Retaining Walls

1. The proposed height of the retaining walls are required to ensure new residential lots to the south of the wall are retained to create level building sites for house construction in a similar manner as the Plumwood Avenue lots.
2. The applicant has already dropped 0.5m from the finished floor level of the new lots from the front of the road in order to minimise engineering construction costs and not substantially reduce the market appeal of the lots.
3. The City's previous suggestion of a tier wall to minimise the bulk impact to adjoining owners is not recommended as this would reduce the development area of the lot which is quite significant given the proposed small sizes.
4. The applicant is building to average ground level of the land and given that the walls are located on the southern boundary of the



lots fronting Plumwood Avenue, the overshadowing effect to the lots is minimal.

5. There will be a height and scale impact of the proposed retaining wall on the owners along Plumwood Avenue, however, given that the walls height is required to ensure the average ground level is maintained, the walls can be supported. Otherwise it would be unreasonable for the developer on Lot 412 to create lots that drop approximately 3 metres from the road levels as this would be the case if no walls were to be erected.

### Conclusion

The proposed retaining wall is required to ensure the existing natural land levels on Lot 412 Gaebler Road are retained. The proposed height of the wall is required to ensure proposed lot levels are designed to an acceptable level from a proposed road level following the natural contours of the land. It is not reasonable to request the wall to be reduced in height. The wall is located on the southern boundary of the lots on Plumwood Avenue and the wall has minimal overshadowing impacts on the lots, and the wall complies with the Residential Design Codes requirements Clause 3.9.1 – Solar Access for Adjoining Sites, therefore the retaining wall height is recommended for approval.

Given the above, approval to the proposed retaining wall is recommended subject to conditions.

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

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

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



- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes  
APD32 Residential Design Codes

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

Application was advertised for comment for 14 days. Two submissions were received during the advertising period, one additional late submission was also received from the owner of Lot 144. However, the late submission was also considered as part of this report.

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

Nil.

**14.10 (MINUTE NO 2375) (OCM 20/04/2004) - REQUEST TO WAIVE PLANNING APPLICATION FEE - RENEWAL OF PLANNING APPROVAL - STORAGE OF FIREWOOD AND MULCH - 3 TAPPER ROAD, BANJUP - OWNER/APPLICANT: G D WHITE (5513724) (MR)**

**RECOMMENDATION**  
That Council:

- (1) not waive the planning application fee of \$100 as there is insufficient justification in this instance;
- (2) notify the applicant accordingly and advise that Council is not prepared to receive the planning application until the planning fee has been paid; and
- (3) defer the planning notice served upon Mr Graham White subject to the planning application being determined within the 60-day notice period issued on 4 February 2004.



**COUNCIL DECISION**

MOVED Cllr M Reeve-Fowkes SECONDED Cllr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**Background**

ZONING:	MRS:	Rural – Water Protection
	TPS3:	Resource Zone
LAND USE:	Existing house and outbuildings, mulch and timber storage	
LOT SIZE:	4.079ha	
AREA:	N/A	
USE CLASS:	Nursery – discretionary use SPP6	

An extensive background to the property is contained in OCM19/3/02 Item 14.2

In 1998 Council at its ordinary meeting resolved to initiate legal action against Mr White for the use of the lot for the retail and storage of swimming pools, which was in contravention of the Special Rural Zone under District Zoning Scheme No 2.

On 14 January 2002 under delegated authority of Council approval was granted for a plant nursery consisting of storage of firewood and mulch subject to several conditions. The approval was limited to a period of 12 months after which time a renewal of approval was required.

Mayor Lee met with Mr Graham White and the Principal Planner on 31 March 2004 to discuss the renewal of planning approval. At that meeting Mr White explained he had difficulty completing written documents. Mr White strongly objected at the meeting to paying the \$100 application fee and having to apply to renew the approval every 12 months.

**Submission**

Mr White has requested Council to waive the planning application fee of \$100 on the basis that:-

- the business has been operating for many years before needing planning approval;
- the application fee was waived before; and
- the renewal of approval was required every year.



## Report

The previous application fee for the storage of firewood and mulch was waived as a means of seeking the owner's cooperation to legitimise the existing use under Town Planning Scheme No 3 and protect the environmental significance of the EPP wetland that covers a large area of the land. The City's negotiations with Mr White had at that time proven very difficult and this was a means to achieving a cooperative outcome.

The planning approval expired on 14 January 2003 and a renewal application has been submitted to Council. Despite that the planning application fee was previously waived there are no valid reasons why this should occur again. Mr White operates a commercial business from his property where he lives and has gained a commercial advantage by not having to pay for a commercial property elsewhere in the district.

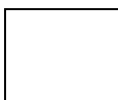
The City's planning application fees are based on the Town Planning (Planning Fees) Regulations that were adopted by the Council over 3 years ago. The planning fees are an upper limit of charges that the Council can raise on planning application. Therefore the Council has the discretion to either waive the \$100 fee in part or in total. The \$100 application fee is one of the lowest in the application fee schedule.

In conclusion there is insufficient justification for the application fee to be waived in this instance. If the applicant fails to pay the application fee if instructed to do so by Council the application will be returned and cancelled as being incomplete due to lack of payment. The 60 day notice period for the owner would then apply and the storage of mulch and firewood must then be removed. In this context the \$100 fee is considered insignificant in amount and should be paid to enable the renewal of the application to be approved. Such an approval, if granted, would then be made personal to the owner Mr White, instead of limiting the approval to a 12-month period on the land as previously applied. If the property was sold, then the approval would lapse and have no further effect. Mr White has verbally agreed to this arrangement but still objects to the planning fee.

## 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 competitive without compromising quality."*
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*



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."*

The Planning Policies which apply to this item are:-

Nil

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

Nil

#### **Legal Implications**

City of Cockburn - Town Planning Scheme No 3  
Town Planning (Planning Fee) Regulations

#### **Community Consultation**

Nil

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

Nil.

**14.11 (MINUTE NO 2376) (OCM 20/04/2004) - EXTENSION TO COOGEE GENERAL STORE (RETROSPECTIVE PLANNING APPROVAL) - LOT 1; 355 COCKBURN ROAD, COOGEE - OWNER: G J & D E LOHMAN - APPLICANT: PETER D WEBB & ASSOCIATES (3309389) (ACB) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant retrospective approval to the General Store extensions on Lot 1 (355) Cockburn Road, Coogee subject to the following conditions:

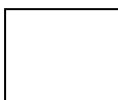
#### **STANDARD CONDITION**

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. A plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by Council as a separate application. The application (including detailed plans) and appropriate fee for a sign licence must be submitted to Council prior to the erection of any signage on the site/building.
4. No bunting is to be erected on the site. (Bunting includes streamers, streamer strips, banner strips or decorations of similar kind).
5. Landscaping and tree planting to be undertaken in accordance with the approved plan prior to the occupation of the site.
6. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council.
7. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved, by the Council.
8. All stormwater being contained and disposed of on-site.
9. Works depicted on the approved parking plan shall be maintained to the satisfaction of the Council.
10. A minimum of 1 disabled car bay 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.
11. Disabled car bays are to have a maximum grade 2.5%.
12. 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.





13. The development site must be connected to the reticulated sewerage system of the Water Corporation before commencement of any use, or to such alternative system of effluent disposal as may be approved by the Department of Health prior to commencement of any use.
14. The development must display the street number and where there is no street number allocated to the property, the lot number shall be displayed instead.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO APPLYING FOR A BUILDING LICENCE

15. 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;
  - (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.

#### SPECIAL CONDITIONS

16. Demolition of the dwelling at the rear of the General Store to accommodate on site car parking and landscaping requirements.
17. Reconfiguration of the car bays and driveway as marked red on the approved plan.
18. The applicant to erect a sign on the side of the General Store advising patrons of the rear car parking area.
19. The applicant to remove the existing crossover and reinstate the verge.
20. There shall be not less than (1) shade tree planted for every 50 square metres of the total landscaped area provided on the lot and within the street verge.
21. The proponent to restrict the value of the improvements to a figure not exceeding \$5,000.00 and this shall be a maximum amount for the purposes of seeking any future compensation.

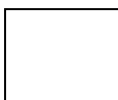
#### FOOTNOTES



1. The development is to comply with the requirements of the Building Code of Australia.
2. In regards to special condition 16, the applicant is to submit a Demolition / Licence Application with the City's Planning and Building Departments.
3. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
4. Until the Council has issued a Certificate of Classification under Regulation 20 of the Building Regulations 1995, there shall be no approval to continue the use of the building for the purposes of the development herein conditionally approved and the land shall not continue to be used for any such purpose.
5. Detailed plans and specifications of the kitchen, dry storerooms, cool rooms, patron and staff sanitary conveniences and garbage room, are to be submitted to and approved by the Council's Health Services prior to the occupation of the premises. The plans to include details of:
  - (a) the structural finishes of all floors, walls and ceilings;
  - (b) the position, type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc.); and
  - (c) all kitchen exhaust hoods and mechanical ventilation systems over cooking ranges, sanitary conveniences, exhaust ventilation systems, mechanical services, hydraulic services, drains, grease traps and provision for waste disposal.

These plans are to be submitted separately to those submitted to obtain a building licence.

The application must be in accordance with the Health (Food Hygiene) Regulations 1993 and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only) and also include any information about the existing facilities to be retained and used (refer to the attached form).



6. Submission of mechanical engineering design drawings and specifications, together with certification by the design engineer that satisfy the requirements of the Australian Standard 3666 of 1995 for Air Handling and Water Systems, should be submitted in conjunction with the Building Licence application. Written approval from the Council's Health Service for the installation of air handling system, water system or cooling tower is to be obtained prior to the installation of the system.

### **COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr A Tilbury that Council:

- (1) adopt the recommendation subject to:
  1. Deleting Standard Condition 7.
  2. Amending Conditions 5, 12, 13, 15, 16, 17 and 19 and Footnote 5 as follows:

#### STANDARD CONDITIONS

5. Landscaping and tree planting to be undertaken in accordance with the approved plan within 60 days of the approval being granted.
12. Landscaping is to be undertaken in the street verge adjacent to the Lot in accordance with the approved plans within 60 days of the approval being granted and thereafter maintained to the Council's satisfaction.
13. The development site must be connected to the reticulated sewerage system of the Water corporation, or to such alternative system of effluent disposal as may be approved by the Department of Health.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO APPLYING FOR A BUILDING LICENCE

15. A landscape plan must be submitted to the Council and approved and shall include the following:
  - (1) the location, number and type of existing and proposed trees and shrubs;
  - (2) any lawns to be established;

- (3) any natural landscape areas to be retained; and
- (4) those areas to be reticulated or irrigated and verge treatments.

#### SPECIAL CONDITIONS

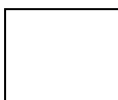
- 16. Demolition of the dwelling at the rear of the General Store being completed within 60 days of the approval.
- 17. Reconfiguration and construction of the car bays and driveway as marked red on the approved plan within 60 days of the approval.
- 19. The applicant must reconfigure and remove a portion the existing crossover and reinstate the verge in accordance with the approved plan.

#### FOOTNOTES

- 5. Detailed plans and specifications of the kitchen, dry store rooms, cool rooms, patron and staff sanitary conveniences and garbage room, are to be submitted to and approved by the Council's Health Services. The plans to include details of:
  - (a) the structural finishes of all floors, walls and ceilings;
  - (b) the position type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc); and
  - (c) all kitchen exhaust hoods and mechanical ventilation systems over cooking ranges, sanitary conveniences, exhaust ventilation systems, mechanical services, hydraulic services, drains, grease traps and provision for waste disposal.

These plans are to be submitted to those submitted to obtain a building licence.

The application must be in accordance with the Health (Food Hygiene) Regulations 1993 and Chapter 3 of the Australian New Zealand Food Standards Code (Australia



Only) and also include any information about the existing facilities to be retained and used (refer to the attached form).

- (2) advise the owner of Council's disappointment and objection to the extensions being carried out unlawfully particularly when the Council had refused its permission at the time. Having reconsidered the merits of the proposal and advice from the Department of Planning and Infrastructure the Council is prepared to approve the development in this instance. The Council will however not tolerate any subsequent breach of the City's Town Planning Scheme or any other regulations it administers, which will, where necessary involve legal action for any subsequent breach.

**CARRIED 8/0**

### **Explanation**

The premises known as 'the Crab Shack' is an existing development and the application involves the retrospective approval of additions already carried out. The officer's recommendation needs to be amended to reflect this situation by removing references to certain conditions being completed prior to occupation.

The owner should also be advised of the Council's concern over the extensions being carried out unlawfully and that any subsequent breach of the Scheme will not be tolerated. There is however sufficient merit to retrospectively approve the extensions based on advice from the Department of Planning and Infrastructure.

### **Background**

ZONING:	MRS:	Primary Regional Roads
	TPS3:	Primary Regional Roads
LAND USE:	General Store	
LOT SIZE:	1204m <sup>2</sup>	
AREA:	250m <sup>2</sup>	
USE CLASS:	N/A	

The General Store (known as "The Crab Shack") is located at the front of the subject property with a residential dwelling at the rear of the Store. The residence is accessed via a battleaxe leg along the northern section of the site. At the front of the store are unmarked car bays. The front half of the site is void of any landscaping.



The existing shop has operated on the site for at least 30 years. There is inadequate parking onsite and customers often park on the verge and adjacent Crown Reserve.

An application dated 27 June 1991 proposed demolition of an existing lean to and WC from the northern side of the existing General Store and an existing shed located east of the General Store.

This application was refused by Council on 3 September 1991 and a Form 2 Refusal was issued on 4 September 1991 with the following reasons:-

1. *There is insufficient car parking for staff and customer vehicles.*
2. *The Main Roads Department does not support the proposal at the present time.*
3. *The locality requires substantial preplanning, and the extensions may prejudice the future planning/development of the locality.*
4. *Vehicular circulation for the proposed car parking area is not satisfactory."*

Irrespective of the above, the proponent carried out the demolition and extensions approximately 10 years ago.

### **Submission**

The applicant has now submitted an application for retrospective planning approval of the shop extensions. It is understood from discussions with the applicant that the store proprietor seeks to apply for a liquor license to sell alcohol from the store and now needs all the necessary approvals for the premises.

When asked the reason why the extensions were carried out irrespective of the 1991 refusal, the applicant advised that the proponent carried out the demolition and extensions as *"in the owners view, Council's decision to refuse the extension was flawed in logic and reason because the existing building;*

1. *Was structurally unsound and dangerous;*
2. *Was vermin infested with rats, cockroaches, etc;*
3. *Was grossly unhealthy and considering the building was used for the preparation of food, this posed a serious health issue; and*
4. *Only offered limited security."*

In addition the Applicant submits the following:

- *"The proponent in this instance acknowledges the reservation status of the land and has indicated a preparedness to restrict the value of the improvements attached in this application, to a figure not exceeding \$5000 (at today's date).*



- *The Department for Planning and Infrastructure has responded and confirmed that the Department would support the proposal the subject of this application.*
- *Requests the approval of the City and the Commission to the proposed extensions to the General Store and understands the City is empowered to retrospectively approve planning application which have already been commenced, pursuant to Clause 8.4.1.”*

## **Report**

The subject site is within the Fremantle-Rockingham Regional Road Reserve under Town Planning Scheme No. 3 and the Metropolitan Region Scheme. The City has delegated authority to assess applications relating to Category 3 roads in the Regional Road Network under Notice of Delegation of 20 September 2002 under the Western Australian Planning Commission Act (1985) after having referred the application to the Department for Planning and Infrastructure (DPI) for comment.

The DPI is willing to support the proposal due to the minor nature of the development.

As the applicant stated above, Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3 (the Scheme), however this discretion is on the basis that the proposal conforms to the provisions of the Scheme.

The development as it currently exists does not conform with the requirements of Town Planning Scheme No. 3. The applicant has, however, committed to the demolition of the house to accommodate additional car parking (total 17 bays) and landscaping (either 10% - 120.4m<sup>2</sup> or 5% - 60.2m<sup>2</sup> provided the verge is maintained) and bring the proposal into compliance with Town Planning Scheme No. 3 provisions.

It is therefore recommended that the application be conditionally approved on this basis.

## **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:-

APD10          Discretion to Modify Development Standards  
APD17          Standard Development Conditions and Footnotes

**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

Nil.

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

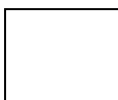
Nil.

**14.12 (MINUTE NO 2377) (OCM 20/04/2004) - NEWMARKET HOTEL - LOT 301; 1 ROCKINGHAM ROAD, HAMILTON HILL - OWNER: KEE VEE PROPERTIES PTY LTD (2212274) (CP) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report; and
- (2) instruct its solicitors to initiate legal proceedings against Kee Vee Properties Pty Ltd (ACN 009 292 237), being the owners of Lot 301 (1) Rockingham Road, Hamilton Hill, for a breach of Special Conditions 13 and 14 of the planning approval dated 21 May 2003, in contravention of the City of Cockburn Town Planning Scheme No.3 and the Town Planning and Development Act 1928.





**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr S Limbert that Council:

- (1) receive the report;
- (2) instruct its solicitors to initiate legal proceedings against Kee Vee Properties Pty Ltd (ACN 009 292 237), being the owners of Lot 301 (1) Rockingham Road, Hamilton Hill, for a breach of Special Conditions 13 and 14 of the planning approval dated 21 May 2003, in contravention of the City of Cockburn Town Planning Scheme No.3 and the Town Planning and Development Act 1928; and
- (3) require its Solicitors to attend a briefing at a date set by the Mayor to advise Council of the likely outcomes of the above legal action and to further advise Council on whether or not it should engage a senior Counsel to facilitate and expedite Council's desired outcomes.

**CARRIED 8/0**

**Explanation**

The Newmarket Hotel has been an eye sore to one of the main entrances to Cockburn for far too long. Progress is non-existent and the building appears to be rapidly deteriorating. The developers have not kept to their side of the agreement that was made last year that allowed them to build a bottle shop and sports bar on the condition that they renovate the hotel. This issue needs to be pursued vehemently as the heritage listed building is far from being the asset to our City that it should be.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Local Centre
LAND USE:	Former Newmarket Hotel – Vacant New Newmarket Tavern - in operation	
LOT SIZE:	0.3865 ha	
USE CLASS:	N/A	

Since March 1998 the Council has granted development approvals on four occasions in respect to proposals to reuse the heritage listed Newmarket Hotel, or to develop and use (or change the use of) the new bottleshop building erected to the rear of the former hotel on the same land.

Specifically, due to the heritage status of the Newmarket Hotel building, Council had on several occasions in the past granted generous car



parking concessions for development proposals on the land as conservation incentives, to encourage restoration of the old hotel building. Despite the owners entering into legal agreements with the Council to ensure that conservation work would be commenced and completed within certain timeframes, recent site inspections have revealed that none of the work required to be done appears to have been commenced.

The current legal agreement (Deed) which has been breached was required in accordance with Special Condition 16 of the development approval granted by the Council at its Ordinary meeting on 20 May 2003 for the 'change of use' of the bottleshop building on the above land for use as a tavern. The Deed was required to ensure compliance with Special Conditions 13, 14 and 15.

A description of the planning history of the site is outlined in the Agenda (Item 14.13) for that meeting.

### **Report**

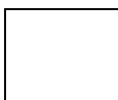
The Deed reiterates the requirements of Special Conditions 13 and 14 and states that Kee Vee covenants with the City that it shall:

- “(a) Commence the external conservation works as set out in the schedule to this Deed to the Hotel in accordance with plans approved by the City by 20 January 2004; and*
- (b) Complete the external conservation works to the hotel in accordance with the Approved Plans by 20 June 2004”.*

As stated above, recent inspections of the land confirm that no work required under the Deed has been commenced. A copy of the schedule of works is contained in the Agenda attachments.

Council Administrative Policy APD29 “*Development Compliance Process*” suggests a process to be followed when carrying out development compliance. The Policy generally provides for the issuing of two warning letters prior to initiating legal action. In the current circumstances this procedure is not considered to be appropriate for the following reasons:

- The time frames and works required by the legal agreement have always been understood by Kee Vee and were instrumental to Council approving the change-of-use of the tavern in May 2003;
- Kee Vee have had every opportunity to commence the works required by the Deed prior to 20 January 2004;



- No correspondence has been received from Kee Vee either before or after the 20 January 2004 (being the date external conservation works were to have been commenced) indicating any problem with their ability to complying with the Deed requirements;
- It is noted that Kee Vee lost the Supreme Court case [WASC 157] regarding a dispute it had with a former tenant. This "litigation" was submitted to Council at its meeting on 20 May 2003 as a reason why a lack of progress had been made on the conservation works at that point;
- Due to the time frames specified in the Deed having now lapsed, it is now impractical to enforce the Deed.
- Council is empowered to prosecute a person or persons for a breach of its Town Planning Scheme by virtue of Section 10AB of the Town Planning and Development Act, regardless of whether prior notice to the defendant has been given or not.
- The Deed was amended in 2003 to extend to the timeframes by 6 months. Further extensions are not warranted.

In light of these circumstances, it is recommended that the requirements of APD29 which provides for warning notices to be issued, be waived and for Council to proceed with legal action without delay.

The breach of the Deed constitutes a failure to comply with Special Conditions 13 and 14 of the development approval issued on 21 May 2003 in accordance with Town Planning Scheme No.3. Any person who contravenes a town planning scheme commits an offence under the Town Planning and Development Act 1928.

### **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 character and historic value of the human and built environment."*

The Planning Policies which apply to this item are:-

APD29          Development Compliance Process

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

Undertaking legal proceedings will require the use of funds from the City's legal expenses budget. If successful, the City will be able to recover these costs from the defendant.

#### **Legal Implications**

Town Planning Scheme No.3  
Town Planning & Development Act 1928.

#### **Community Consultation**

N/A

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

Nil.

**14.13 (MINUTE NO 2378) (OCM 20/04/2004) - RETROSPECTIVE APPROVAL - ENCLOSURE OF EXISTING PATIO - GROUPED DWELLING - STRATA LOT 2; 8B PLANTAGENET CRESCENT, HAMILTON HILL - OWNER/APPLICANT: MASSIMO BALDASSARRA (2200263) (VM) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant retrospective approval to an existing enclosure of an existing patio on Strata Lot 2 (no. 8B) Plantagenet Crescent, Hamilton Hill, 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. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
4. All stormwater being contained and disposed of on-site to the satisfaction of the Council.

#### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval.

#### **COUNCIL DECISION**

MOVED Clr L Goncalves SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 8/0**

#### **Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	2 Grouped Dwellings	
LOT SIZE:	Strata Lot 2 – 487m <sup>2</sup>	
AREA:		
USE CLASS:	Single (R-Code) House 'P' (Permitted) Use	

#### **Submission**

An application has been made for retrospective approval to enclose a patio structure and use it as a habitable room. Plans of the proposal are contained in the Agenda attachments.

#### **Report**

As the enclosure exists the application is referred to Council for determination. Officers do not have delegated authority to approve retrospective applications. Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3.



The patio complies with Scheme requirements. The proposed setback of 600mm to the side strata boundary complies with the Building Code of Australia requirements, given that it is setback from a strata boundary.

The applicant/owner has obtained the adjoining owners comments on the application. The adjoining owner has no objections to the proposal.

From a site inspection it was determined that the proposal matches the existing house materials and is visually acceptable.

No further action is recommended in respect to the unlawful development, given that the owner has now sought approval and that the patio does not detract from the streetscape or the adjoining owners visual amenity.

Given the above it is recommended that the retrospective approval be given.

### **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."*
  - *"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."*
  - *"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."*

APD17 Standard Development Conditions and Footnotes.

### **Budget/Financial Implications**

N/A



**Legal Implications**

Nil.

**Community Consultation**

N/A

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

Nil.

**14.14 (MINUTE NO 2379) (OCM 20/04/2004) - DELEGATED AUTHORITY - SECTION 374(1B) LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 (3108) (JW)**

**RECOMMENDATION**

That Council delegate its authority to approve or to refuse to approve plans and specifications under Section 374(1b) of the Local Government (Miscellaneous Provisions) Act 1960, to Council's Building Surveyor, James Martin.

**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 8/0**

**Background**

Mr J Martin is due to commence his employment with the City of Cockburn on 14 April 2004 and part of his agreed duties, is to approve or refuse building plans and specifications under delegated authority of Council.

**Submission**

Mr Martin has the necessary Local Government Qualifications to accept this delegation.

**Report**

N/A



**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

**Legal Implications**

Nil.

**Community Consultation**

N/A

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

Nil.

**14.15 (MINUTE NO 2380) (OCM 20/04/2004) - TEMPORARY STORAGE OF REFRIGERATED SEA CONTAINERS - LOT 101; 620 NORTH LAKE ROAD, SOUTH LAKE - OWNER: DEALDOVE PTY LTD - APPLICANT: LAM'S ORIENTAL SUPERMARKET (5516730) (CP) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) refuse the retrospective application by Lam's Oriental Supermarket to store and use two refrigerated sea containers at the Lakes Shopping Centre, Lot 101 (620) North Lake Road, South Lake, for the following reasons:
  1. The retail floor area of the shopping centre is currently in excess of the retail limit specified in Town Planning Scheme No.3 (RU4), and approval of this application will exacerbate this situation.
  2. The ad-hoc approval of additional floor space for the shopping centre is contrary to the principles of sound and proper planning.
  3. The adverse effects of the sea containers on the appearance of the shopping centre.
  4. Approval of the application will result in a further loss in car parking bays for the shopping centre.





5. No justification has been provided by the applicant in support of the use of the sea containers.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval and Form 2 refusing the application for the reasons specified above;
- (3) require the owners to immediately cease using the sea containers and to remove the containers from the site within in 28 days of receiving this decision;
- (4) require the owners to immediately remove all materials from the car bays across the access at the rear of Lam's supermarket;
- (5) advise the applicants that:
- the refrigerated sea containers do not comply with the Health (Food Hygiene) Regulations 1993; and
  - the extent of time and use proposed for the containers does not conform to the guidelines of the Health Department and as such, will not be permitted;
  - the applicants should examine their retailing needs and either scale down their operation to fit within the existing floor area or consider relocating to more suitable premises.
- (6) write to the shopping centre owners:
- informing that the retail floor area currently occupied within the shopping centre exceeds the 4500m<sup>2</sup> maximum specified by Restricted Use 4, in Town Planning Scheme No.3; and
  - invite the owners to apply to Council to amend the town planning scheme or to reduced the retail component of the shopping centre to 4500m<sup>2</sup> to comply with the scheme provisions.

**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 8/0**



## Background

ZONING:	MRS:	Urban
	TPS:	Local Centre (RU4)
LAND USE:	Shopping Centre	
LOT SIZE:	3.5281ha	
USE CLASS:	Shop = "P" use – permitted (incidental storage of goods)	

A development application has been received from Dealdove Pty Ltd on behalf of Lams Oriental Supermarket to continue to store two refrigerated sea containers at the rear of Shops 33-36 at the Lakes Shopping Centre on North Lake Road, South Lake. The application is retrospective as the sea containers are currently onsite. As such, the application requires the determination of the Council.

A previous application for the "temporary" storage (i.e. for 18 months) of four refrigerated sea containers was received by the City on 25 September 2003. As a result of advice from the City's Health Services, the applicant withdrew the application and removed two refrigerated containers, but two containers have remained on site since. Health Services staff have also confiscated food and identified significant health related concerns about use of the existing containers.

## Submission

It is proposed to continue to store two sea containers at the rear of the shopping centre for a period of 18 months. The two containers will occupy up to 4 car bays for the shopping centre. It is understood the sea containers have until recently, been used by Lams Oriental Supermarket to store frozen goods.

## Report

The site is zoned Local Centre in Town Planning Scheme No.3 (i.e., "TPS3") and is identified as Restricted Use 4. This limits the retail floor space for the shopping centre to no more than 4500m<sup>2</sup> and other commercial non-retail floor space to 4000m<sup>2</sup> gross lettable area. According to the City's calculations, retail floor space currently exceeds 4500m<sup>2</sup> for the shopping centre. Approval of this proposal would further exceed the retail floor space allocation under TPS3.

The siting of the sea containers at the rear of the shopping centre does nothing to enhance the amenity and functionality of the area, being land available for public access and car parking. Car bays will be lost and the sea containers are considered unsightly. Development of this nature should be discouraged.

The City's Health Services oppose the application as the containers do not comply with the Health (Food Hygiene) Regulations 1993. Use of



the containers as proposed in this instance does not comply with the grounds for the "temporary" use the Executive Director, Public Health has indicated would be acceptable for the local government to approve. The owners have been made aware of the City's health concerns and have continued to retain the containers, despite being requested to have them removed.

Furthermore, upon inspecting the site, it became apparent that a car parking area across the access at the rear of Lam's shop is being used to store empty crates and pallets of product (refer to photo in Agenda attachments). This is clearly an unacceptable situation and the applicant should be ordered to remove all material immediately.

Given the foregoing, it is recommended the application be refused.

### **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."*

### **Budget/Financial Implications**

Possible legal costs associated with defending any appeal on the Council decision.

### **Legal Implications**

Nil

### **Community Consultation**

Nil

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

Nil.



**14.16 (MINUTE NO 2381) (OCM 20/04/2004) - LOCAL STRUCTURE PLAN - LOT 199 GAEBLER ROAD, AUBIN GROVE - OWNER: STOCKLAND WA DEVELOPMENTS PTY LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (9645A) (CP) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant final adoption to the Local Structure Plan for Lot 199 Gaebler Road, Aubin Grove pursuant to Clause 6.2.9.1 (a) of the City of Cockburn Town Planning Scheme No.3;
- (2) refer the Local Structure Plan for Lot 199 to the Western Australian Planning Commission for its endorsement pursuant to Clause 6.2.10 of the City of Cockburn Town Planning Scheme No.3; and
- (3) inform the applicant and submitters of this decision.

**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 8/0**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Development Zone (DA 11)
LAND USE:	Site earthworked with conservation reserve retained	
LOT SIZE:	48.3ha	

At the Ordinary meeting of Council on 19 November 2002, the following was resolved:

*“That Council:*

- (1) *advise Stocklands that Council is not prepared to adopt the Local Structure Plan for Lot 199 Gaebler Road and part of Lot 199 Lyon Road until the following matters are addressed and satisfactorily resolved;*
  1. *Requirements and treatment of Lyon Road.*
  2. *A vegetation and flora study to identify any significant flora, that is, priority or declared flora; and*



- (2) *forward the Schedule of Submissions for the Local Structure Plan for Lot 199 Gaebler Road and portion Lot 204 Gibbs Road, Banjup, to the Western Australian Planning Commission for consideration."*

By letter dated 28 May 2003, the Western Australian Planning Commission indicated it was prepared to endorse the Local Structure Plan subject to specific modifications. The Commission has recently advised the modifications undertaken to the structure plan appear satisfactory.

### **Report**

As far as the City is concerned, the two outstanding matters listed under (1) above have been satisfactorily resolved and the Local Structure Plan amended appropriately.

It is worth noting the Western Australian Planning Commission approved a revised plan of subdivision for Lot 199 Lyon Road on 16 September 2003. As such and due to part of Lot 204 Lyon Road being under different ownership, it has been agreed to exclude Lot 204 from the structure plan at this point in time.

It is therefore recommended that the Council grant final adoption to the Local Structure Plan and refer the Local Structure Plan to the Commission for final endorsement.

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

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

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
  - *"To 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
- SPD3 Native Fauna Protection Policy
- SPD5 Wetland Conservation Policy
- APD20 Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and / or Drainage Areas

**Budget/Financial Implications**

Nil

**Legal Implications**

Nil

**Community Consultation**

Local Structure Plan advertised for comment as per Scheme requirements.

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

Nil.

**14.17 (MINUTE NO 2382) (OCM 20/04/2004) - BIBRA LAKE CAFE/KIOSK - OUTCOMES OF THE ABORIGINAL HERITAGE SURVEY (1114553) (AJB) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) support the recommended repositioning of the proposed café/kiosk within Lot 309 Progress Drive being immediately adjacent to and east of the existing carpark;
- (3) through the Chief Executive Officer, negotiate an appropriate package with the Aboriginal representatives which recognises their association and interest with the land; and
- (4) advise Gavin Jackson Pty Ltd and Voran Pty Ltd accordingly.



**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Cllr S Limbert that Council:

- (1) receive the report;
- (2) support the recommended repositioning of the proposed café/kiosk within Lot 309 Progress Drive being immediately adjacent to, and east of the existing carpark;
- (3) through the Chief Executive Officer, negotiate an appropriate package, as detailed in the report with the Aboriginal representatives which recognises their association with the land, with the final negotiated package to be referred to Council for decision; and
- (4) advise Gavin Jackson Pty Ltd and Voran Pty Ltd accordingly.

**CARRIED 8/0**

**Explanation**

Council requires the final negotiated package to be presented for decision.

**Background**

At the Ordinary Meeting of Council on 19 March 2002, Council resolved to determine all the necessary approvals required to facilitate the construction of a kiosk on Lot 309 Progress Drive, Bibra Lake and to engage the services of a suitably qualified commercial consultant to prepare a report on the viability of the proposed café/kiosk at Bibra Lake.

Council at its Meeting held 17 June 2003, resolved to proceed with the development of a café/kiosk at Bibra Lake providing funding on the 2003/04 budget for the project management design and construction and servicing of the café/kiosk and to call for submissions from suitably qualified and experienced consultants to manage the project on a phase basis.

At its Meeting held on 16 September 2003, Council considered a petition and letter opposing the proposed development of a café/kiosk at Bibra Lake and resolved to advise the petitioner that Council has previously resolved to proceed with the proposed café/kiosk. At the same meeting, Council resolved to appoint Voran Consultants to manage the café/kiosk project.



## **Submission**

A report on the Aboriginal Heritage survey and consultation regarding the proposed Bibra Lake café/kiosk development has been received from Gavin Jackson Pty Ltd.

In light of the outcomes of the initial public consultation with the Aboriginal elders, it is necessary to provide further direction to the consultants.

## **Report**

Bibra Lake is registered as an area of significance to the Aboriginal people and is the subject of a registered native title claim over the area is proposed to construct the café/kiosk. Accordingly, it is necessary to obtain approval under Section 18 of the Act prior to development.

Gavin Jackson Pty Ltd has been engaged by the City to undertake liaison and consultation with the Aboriginal representatives to obtain the necessary approvals. They have completed a search of the Register of Aboriginal Sites held at the Heritage and Culture division of the Department of Indigenous Affairs (DIA) which identified seven (7) previously recorded Aboriginal sites within 4km<sup>2</sup> of the survey area. On Wednesday 10 March 2004 the consultants, the project manager and Allen Blood on behalf of the City met on site with 21 members of the combined Metropolitan Working Group. The outcomes of the meeting were as follows:

- The ethnographic significance of the land including the proposed location of the Bibra Lake café/kiosk to the Aboriginal people was confirmed.
- The fact that the land has been filled and landscaped has not in the mind of the representatives altered the significance to Aboriginal people.
- The Group unanimously opposed the construction of the café/kiosk on the proposed site.
- The meeting revealed the level of frustration representatives from the combined Metropolitan Working Group have in regard to pressure from development on land that they have traditional responsibility to protect. This frustration is amplified by a need to protect the land but also to consider reasonable development that has minimal environmental impact on the land.
- The frustration of the Group is also driven by a desire for the non-indigenous community to recognise the Noongar traditional owners and to compensate them for any impact.





- Whilst there were a number of members who advise they would oppose development on any portion of the area others indicated that they may consider a package deal which included recognition of the Aboriginal people and some financial consideration.

A copy of the notes from the meeting with the combined Metropolitan Working Group is included as an attachment to the Agenda.

Given the response from the meeting with the Aboriginal representatives there are three (3) possible courses of action open to Council. These are as follows:

1. Abandon the proposal to develop a café/kiosk on the Bibra Lake Reserve.
2. Notwithstanding the opposition of the Aboriginal representatives to the proposed development, request the Minister to approve the development under Section 18 of the Act on the basis that the consultation requirements have been complied with although no agreement has been reached.
3. Submit a modified proposal and package to the Aboriginal representatives for further consideration.

The project team has discussed this matter and are of the view that option 3 with the café/kiosk in a location further away from the lakes edge with due recognition of Aboriginal association with the area should be pursued. Financial compensation for the land is not considered appropriate given that this is a community facility rather than a commercial venture for Council.

A number of alternative locations for the café/kiosk have been considered and these are shown as attachments to the Agenda. These include a location adjacent and immediately east of the carpark area which would involve the relocation of the existing pathway around the facility and one to the north of the carpark within the Progress Drive road reserve. The alternative suggested by the Aboriginal representatives on the west side of Progress Drive is not supported for reasons of safety and amenity. The location immediately east and adjacent to the carpark area is recommended given that this will require no clearing of trees on the reserve and will still maintain the visual outlook over the lake.

Recognition of the importance of the area to Aboriginal people could include appropriate signage, naming and/or artwork undertaken by local Aboriginal people. It is considered that the Chief Executive Officer should negotiate this matter with the Aboriginal people.

In the event that the modified package is not acceptable to the Aboriginal people Council would then have the right to submit the



proposal directly to the Minister for approval under Section 18 of the Act. This would be the subject of a future submission to Council in the event that the modified proposal was not accepted.

### **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."*
  - *"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."*
  - *"To conserve the character and historic value of the human and built environment."*
4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*

The Council Policies which apply to this item are:-

Nil.

### **Budget/Financial Implications**

Funds are available for this project under the current budget. The need to undertake further consultation has resulted in the expenditure of additional funds on the project. This includes \$1,122.00 project management fees to Voran and is authorised by the Chief Executive Officer in accordance with Council's resolution of 16/9/2003. In addition, each site meeting with the local Aboriginal representatives costs \$6,300.00 being a payment of \$300.00 to each representative present.

### **Legal Implications**

N/A



**Community Consultation**

Limited to Aboriginal representatives at this time.

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

Nil.

**14.18 (MINUTE NO 2383) (OCM 20/04/2004) - MUNICIPAL HERITAGE INVENTORY REVIEW 2002/03 (3317083) (MR) (ATTACH)****RECOMMENDATION**

That Council:

- (1) adopt the recommended heritage places and management categories listed in the attachments together with the City's recommendations on submissions and insert these places into a second volume of the Municipal Inventory of Heritage Places;
- (2) include the 14 places identified by the Historical Society of Cockburn, Custodians of the Azelia Ley Homestead on the next 4 yearly review list; and
- (3) advise Heritage Today Consultants and submissioners accordingly.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 8/0**

**Background**

On 20 May 2003, the Council resolved to adopt the review list for Municipal Heritage Inventory for the purposes of obtaining public comment.

Section 45 of the Heritage of Western Australia Act 1990 requires the Council to compile and maintain a list of buildings of cultural heritage significance. The Council has broadened the application of the Inventory to include places of natural heritage significance by already including significant wetlands and trees.

The Act also requires the Council to review the Inventory every 4 years, which must be carried out by 2004. This legal obligation will be



fulfilled by the completion of the review list by the publishing of a second volume to the original Municipal Heritage Inventory Report.

### **Submission**

The review list includes 22 additional places of cultural heritage significance. A further list of significant trees is recommended for entry onto the Municipal Heritage Inventory. A complete review list is contained in the agenda attachments.

### **Report**

In accordance with the Heritage Council's Guidelines for preparing Municipal Inventories and the Act the review list was advertised. This involved notifying the affected owners advising them of the proposed entry of the property onto the Municipal Heritage Inventory and seeking comments within 30 days. An advertisement was also placed in the local newspapers circulating in the district advising of the review list being available for public viewing at the City's Administration Centre.

At the close of the submission period 9 submissions were received. Of these four submissions objected to the proposed heritage listing while the remaining submissions outlined comments. The following submissions have been summarised in the agenda attachment and include the City's comments and recommendations.

1. LandCorp – Objection tree listing Aust. Marine Complex: recommended that the submission be dismissed.
2. Main Roads WA – Vegetation within Rockingham Rd Reserve near Henderson Landfill site - recommended that the submission be upheld in part.
3. Department of Conservation and Land Management – 2 Houses No 361 & 361 Cockburn Rd – recommended the submission be upheld in part.
4. Australand – Objection Hammond Park Pine Trees – recommended the submission be upheld.
5. Mr & Mrs Hallissy – Objection No 108 Forrest Rd, Hamilton Hill – recommended the submission be upheld in part.
6. Water Corporation – Historical Site – Lot 703 Fawcett Rd Munster – recommended the submission be upheld.
7. V Poklad & P Veale – Objection House No 108 Clontarf Rd, Hamilton Hill – recommended the submission be upheld in part.



8. The Historical Society of Cockburn, Custodians of the Azelia Ley Homestead – recommended that the 14 new places be included on the 4-year review list.
9. City of Cockburn – Cockburn War Memorial: administrative error – correction to a date on the place record form.

A copy of draft place record forms for each place being considered for entry onto the Municipal Inventory will also be made available on request of Elected Members. A list of places proposed for entry onto the Municipal Inventory are attached and should be read in conjunction with this report.

A Heritage Council brochure has been included in the agenda attachments which explains what a Municipal Inventory is and means to owners. Entry onto the Inventory would trigger a requirement in Town Planning Scheme No 3 for planning approval prior to any changes or redevelopment of the site. The Council can then have due regard to the Inventory in its considerations of development that would affect the place.

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

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

3. Conserving and Improving Your Environment
  - *"To conserve the character and historic value of the human and built environment."*

### **Budget/Financial Implications**

The cost of reviewing the Municipal Inventory has been \$6500 from the Statutory Planning Services budget 03/04.

### **Legal Implications**

The Municipal Inventory review fulfils a requirement of section 45 of the Heritage of WA Act.

### **Community Consultation**

The Municipal Inventory Review involves public consultation on the draft review list before the Council decides on what additional places to include in the Inventory.

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

Nil.



**14.19 (MINUTE NO 2384) (OCM 20/04/2004) - FINAL ADOPTION OF AMENDMENT NO. 13 TO TOWN PLANNING SCHEME NO. 3 (93013) (MD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) add the following modifications to its resolution in pursuance of section 7 of the Town Planning and Development Act 1928 (as amended) to amend Town Planning Scheme No. 3 by Amendment No. 13, dated 17 February 2004, namely
  1. Amending the Scheme Maps as depicted on the Amendment Map by:-
    - Inserting Special Use Zone: "SU 3" to Lot 4065 on Plan 191259 and Lot 4066 on Plan 191260 and Lot 5 on Diagram 66412 and Lot 1 on Diagram 63519 and Lot 0 on Diagram 78591 (Loc 630) and R46840 Farrington Road.
  2. Amending the Scheme Text by:-
    - Inserting into Schedule 4, Special Use Zones, "Special Use No 3" with the reference "SU 3" in the No. column, with the Description of Land, "Lot 4065 on Plan 191259 and Lot 4066 on Plan 191260 and Lot 5 on Diagram 66412 and Lot 1 on Diagram 63519 and Lot 0 on Diagram 78591 (Loc 630) and R46840 Farrington Road", and the Special Use of "Educational Establishment and Convention Centre", subject to conditions – "Planning Approval – Institute for Accident Prevention".
- (2) in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be recalled from the WAPC resigned, sealed and forwarded to the Western Australian Planning Commission; and
- (3) advise the applicant of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 8/0**



## Background

At the Ordinary Meeting on 19 August 2003, Council resolved to initiate the scheme boundary change with the City of Melville. (Minute No 2121):

Council at its Ordinary Meeting on OCM17/2/2004 resolved to grant final adoption to the proposed scheme amendment and to forward the amendment documents to the WAPC seeking final endorsement from the Minister for Planning and Infrastructure.

## Submission

Following further consideration of the scheme amendment by City Officers, a more practical alternative to the reservation of land for public purposes on the IFAP site and land south of Farrington Road, between Murdoch Chase and the Kwinana Freeway was identified and is discussed in the report.

An amendment to Town Planning Scheme No. 3 (TPS3) is required due to the district boundary change between the City of Cockburn and City of Melville. Clause 1.3 of TPS3 describes the Scheme Area as that reflected on the Scheme Map. The Scheme boundary is inconsistent with the new district boundary gazetted on 27 June 2003 and hence the need for a scheme amendment. The new lots transferred to the district also need to be zoned or reserved on the Scheme Map.

## Report

It is recommended that the scheme amendment maps and text be modified to introduce Special Use Zone No 3 (SU 3) applying to that land for the purposes of an educational establishment and convention centre in lieu of the public purpose reserve – special use. This simple modification can be introduced without changing the intent of the scheme amendment that the Council adopted at its Ordinary Meeting on 17 February 2004 and makes the amendment consistent with the approach taken for all other Special Use zones in the Scheme.

The proposed changes will more accurately define the purpose of the land rather than leaving it *“uncertain and open ended”* with the unclear ‘SU - Special Use’ notation of the scheme maps. A special use notation is not sufficient information to describe its ultimate purpose. Town Planning Scheme No 3 defines educational establishment and convention centre accordingly:-

*“educational establishment means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre.”*



and

*“convention centre means land and buildings used and designed for the conduct of conferences, seminars and other similar uses for the dissemination of information and educational purposes.”*

The documents have already been forwarded to the Commission. However, the Secretary has been advised of the recommended modifications and as a consequence the documents have been held in abeyance until the Council has reconsidered the matter.

If the Council adopts the modification described above the Scheme Amendment documents will be recalled from the WAPC modified and returned to the WAPC without delay.

### **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.”*

### **Budget/Financial Implications**

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

### **Legal Implications**

Nil

### **Community Consultation**

The proposed Scheme Amendment was subject to community consultation requirements as set out in the Planning Regulations. Affected property owners within the City of Cockburn were notified of the proposal.





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

Nil.

**14.20 (MINUTE NO 2385) (OCM 20/04/2004) - COOLBELLUP NEW LIVING PROGRAM RECODING SELECTED MULTIPLE UNIT SITES - FINAL ADOPTION TOWN PLANNING SCHEME AMENDMENT NO.14 (93014) (MR) (ATTACH)****RECOMMENDATION**

That Council:

- (1) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (2) adopt Amendment No.14 to Town Planning Scheme No.3 without modification and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission; and
- (3) advise the applicant of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Clr V Oliver SECONDED Clr I Whitfield that Council:

- (1) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (2) adopt the Scheme amendment as specified:

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO.3

AMENDMENT NO.14

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

1. Amending the Scheme Maps as depicted on the Amdment Map by:
  - (i) Recoding 15 Rosalind Way, Coolbellup (known as Gunya Appartments) from R40 to R60.
  - (ii) Recoding 32 Malvolio Road, Coolbellup (known as

- (iii) Orana Apartments) from R40 to R60.
- (iii) Recoding 68 Cordelia Avenue, Coolbellup (known as Wirrana Apartments) from R50 to R60.
- (iv) Recoding No.2 Lot 147 Curan Street and 71 (Lot 135) Coolbellup Avenue from R20 to R30 inclusive of the adjoining pedestrian accessway.
- (v) Add the R11 notation to a portion of Lot 4 (No.68) Cordelia Avenue from R20 to R30 inclusive of the adjoining pedestrian accessway.

Amending the Scheme Map accordingly.

- 2. Amending the Scheme Text, by adding to Schedule 3 – Restricted Uses RU11 as follows:

No	Description of Land	Restricted Use	Conditions
RU11	Portion of Lot 4 on Diagram 46058 Cordelia Avenue, Coolbellup	Aged or Dependant Persons	Planning Approval

Dated this Tuesday, 20<sup>th</sup> day of April 2004

Chief Executive Officer

- (3) require the Department of Housing and Works to retain and conserve the two mature trees on Lot 4 No.2 Cordelia Avenue, Coolbellup along the Curan Street frontage;
- (4) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;
- (5) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval, instruct the applicant to modify the amendment documents in accordance with the Council decision and the documentation be signed, sealed and forwarded to the Western Australian Planning Commission; and
- (6) advise the applicant of the Council's decision.

**MOTION LOST 3/5**

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted subject to the Department of Housing and Works retaining and conserving the two mature trees on (Lot 4) No.2



Cordelia Avenue, Coolbellup along the Curan Street frontage, as indicated in the Plans attached to the Agenda.

**CARRIED 7/1**

### **Explanation**

The two trees targeted are very large healthy trees and should not be a problem to the Plan.

### **Background**

The three sites are currently occupied by three apartment blocks built by the Department of Housing and Works more than 30 years ago.

Council at its Ordinary Meeting on 16 December 2003 resolved to adopt the scheme amendment as follows:-

Amending the Scheme Maps as depicted on the Amendment Map by:-

1. Recoding 15 Rosalind Way, Coolbellup (known as Gunya Apartments) from R40 to R60.
2. Recoding 32 Malvolio Road, Coolbellup (known as Orara Apartments) from R40 to R60.
3. Recoding 68 Cordelia Avenue, Coolbellup (known as Wirrana Apartments) from R50 to R60.
4. Recoding 1 (Lot 204) Curan Street and 71 (Lot 135) Coolbellup Avenue from R20 to R30 inclusive of the adjoining Pedestrian Accessway.

### **Submission**

The Planning Group acting on behalf of the Department of Housing and Works and project partners Mirvac Fini, have three apartment sites for refurbishment identified on the Master Plan for Coolbellup. The following sites are proposed to be recoded to higher residential density code and re-subdivided to enable further development.

(Gunya Apartments) 15 Rosalind Way, Coolbellup R40 to R60

The site currently contains 2 x 3 storey brick and tile apartment buildings set within large landscaped surrounds. The changes proposed to these apartments are described below:-



- Subdivision of the site is proposed to create three new lots over an existing car park that would be relocated behind the existing apartments;
- The existing 30 (three bedroom) apartments will be refurbished and retained on the parent lot and sold to the general public;
- The other two lots will be vacant lots to accommodate future grouped housing - two three bedroom grouped houses (4 new units); and
- A scheme amendment is required to the residential density code to recode the site from R40 to R60. This will facilitate site subdivision and redevelopment described above.

(Orara Apartments) 32 Malvolio Road, Coolbellup R40 to R60

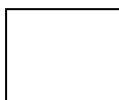
The site currently contains a large 3 storey brick and tile apartment building set on landscaped surrounds housing 18 (2 bed) apartments that will be refurbished. The changes proposed to these apartments are described below:-

- Subdivision of the site is proposed to create three new lots over an existing car park and clothes line area that would be relocated behind the existing apartments.
- One lot will contain the existing 18 bedroom apartment buildings, which will be refurbished for retention by the Department of Housing and Works.
- The other two lots will be vacant lots to accommodate future grouped housing developments comprising of three (2 bed) grouped dwellings for each new lot (6 new units).
- An amendment to the residential density code for the site is required from R40 to R60 to facilitate resubdivision and development.

(Wirrana Apartments) 68 Cordelia Avenue, Coolbellup R50 to R60

The site currently contains two 3 storey brick and tile buildings and one 2 storey brick and tile building. The 2 storey building house 8 single bed apartments while the 3 storey buildings have a total of 36 (3 bed) apartments.

- Subdivision of the site is proposed to create two new lots over an existing car park that would be relocated behind the existing apartments.



- One lot will contain two refurbished buildings with the existing 36 apartments and the 8 one bedroom apartments will be demolished (imminent) facing Cordelia Avenue.
- The other two buildings will be refurbished for retention by the Department of Housing and Works. The other will be a vacant lot to accommodate a future grouped housing development comprising of 9 new 2 bedroom grouped houses.
- A scheme amendment to the residential density code designated for the site on the scheme maps from R50 to R60 is needed to facilitate site resubdivision and redevelopment. This will yield an additional nine (2 bed) grouped houses for retention by the Department of Housing and Works.

The applicant has provided the following justification for the change in residential density for the three sites which has been summarised as follows:-

- The current density controls recognise the three sites as a higher density than the majority of the surrounding residential area, which is predominantly coded R20.
- The proposed density increase will bring the existing development into compliance with the site area requirements of the Residential Design Codes and enable some further infill development.
- The increased density is consistent with the goals of Liveable Neighbourhoods and State Sustainability Strategy and the New Living Program and Coolbellup Master Plan. The goals are urban consolidation within older residential areas, revitalisation of older areas, greater lot sizes and housing type for improved choice and affordability, higher density development closer to commercial centres and public transport, reduced public housing in Coolbellup, physical improvements that will enhance the amenity of the area.
- The proposed subdivision and development will be compatible with existing development on adjoining land.
- There are no physical or servicing constraints.
- The scheme amendment and subdivision application are being progressed concurrently to streamline the planning approval process.
- The Western Australian Planning Commission has been requested to consider the subdivision applications submitted for the three sites and approved the applications on completion of the scheme amendment process.



## Report

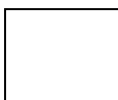
The scheme amendment was referred to the EPA where the proposal was not assessed. The EPA decided that the environmental impacts of the proposal were not severe enough to warrant assessment under Part IV of the Environmental Protection Act.

The scheme amendment was advertised in accordance with the Town Planning Regulation 1969. Signage was erected in prominent locations on each of the three apartment sites inviting submissions on the proposal. Referral letters were also sent to adjacent land owners seeking submissions. At the close of the submission period on 10 March 2004, 5 submissions were received. Of these submissions 3 were in objection and two submissions provided conditional support. A summary of submissions is contained in the agenda attachments and should be read in conjunction with this report.

The submissions raised several concerns in relation to specific apartment sites:-

- Increased population density of the apartments that already have a high population at the Gunya Apartments and in Coolbellup in general.
- Increased traffic, circulation, noise levels and impact on local parks on the Gunya Apartments.
- Loss of two trees at the Wirrana Apartment site.
- Density of development and impact on streetscape the Wirrana Apartments.
- Impact on view of park that would be lost looking through the Gunya Apartments.
- Late objections were expressed verbally from 2 local residents living on Curan Street regarding their belief that the new units would be sold rather than being retained by the Department of Housing and Works as rentals. Concerns were expressed that this went against the Coolbellup New Living Program which was intended to reduce the number of rental units in Coolbellup. Other concerns were raised about a “drinking session” on a recent Friday night where people congregated in the Wirrana car park much to the annoyance of neighbours.

An amendment to Town Planning Scheme No. 3 (TPS) is required to facilitate the redevelopment plans for these three apartment sites. There are several sound planning reasons presented by the applicant in support of the proposed increase in residential density for these



sites. The demolition of sections of the apartments and retention of other apartments enables a greater mix of residential density that has the following benefits:-

- Improved transition of residential density from multiple dwellings to grouped housing to adjacent single housing development.
- More efficient use of large areas of otherwise vacant land that has not been put to optimum use.
- Improved management and maintenance of land.
- The existing development complies with the Residential Design Code requirements.
- One apartment block at the Wirrana site of 8 multiple dwelling units will be demolished (imminent) to make way for a more compatible townhouse style development of 9 units. Multiple dwellings would pave the way for grouped dwellings which is a better type and standard of development.

In relation to the last point of objection regarding DHW retention of the Wirrana Apartment site and the 9 new units proposed, Mirvac Fini have responded accordingly:-

*“Where there has been extra land created off an existing development, that extra land keeps the same occupancy type/status as the greater lot it was created from. That is Wirrana will be retained by the Department of Housing and Works, Orara also retained and the extra lots created off Gunya will be sold.”*

The final tenant mix is not a valid planning consideration to the proposal.

It is further understood that the DHW intensions are to rent the two level two bedroom townhouses to single children families.

Having due regard to all of the issues the proposal raises, it is believed that the points of objection can be satisfactorily addressed at the detailed development application stage. This will give an opportunity to ensure that the final form of development is compatible with the established streetscape in terms of scale, orientation and location. There are no objections from a planning viewpoint to the proposed scheme amendment proceeding.

### **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**

Costs incurred relate to the administration, advertising of the scheme amendment documents and reporting to the Council. Application fees are \$4,400 in accordance with the Planning Regulations.

### **Legal Implications**

City of Cockburn Town Planning Scheme No 3.  
Town Planning & Development Act 1928 (as amended)  
Metropolitan Region Scheme  
Town Planning Regulations 1969

### **Community Consultation**

The proposed Scheme Amendment has been the subject of community consultation requirements as set out in the Planning Regulations.

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

Nil.

## **14.21 (MINUTE NO 2386) (OCM 20/04/2004) - BUSINESS PLAN - DEVELOPMENT COSTS, DEVELOPMENT AND SALE OF MULTI-UNIT LOTS - PORTION OF LOT 101 BEELIAR DRIVE, BEELIAR (4414000) (KJS) (ATTACH)**

### **RECOMMENDATION**

That Council allocate \$30,000 to cover the costs of consultants required to provide information for the preparation of a Business Plan for the development and sale of multi-unit lots on portion of Lot 101 Beeliar Drive, Beeliar with funds to be drawn from Account GL 116 - 6218 - Business Plans.

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

### **COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0**





## Background

Council at its meeting held on 21 January 2003 resolved to:-

*“advise Urban Focus that:-*

- (1) it is not prepared to sell the northern portion of Lot 101 Beeliar Drive to Coburg Nominees;*
- (2) a fair and equitable land exchange of portion of Lot 101 Beeliar Drive owned by the city of Cockburn for a portion of Lot 75, owned by Coburg Nominees, would be considered; and*
- (3) conditional on (2) above, consideration may be given to entering into a joint earthworks contract with Coburg Nominees to render the City’s land suitable for future subdivision.”*

## Submission

Urban Focus in a letter dated 20 January 2003 rejected a proposed land exchange.

## Report

The portion of Lot 101 to be developed is an area of approximately 5000 square metres to the south of the residential development known as Bay View Stage 3 and north of the Beeliar Drive Road Reservation.

Preliminary design work has been undertaken which suggests that 13 units could be positioned on the site stepping down the contour to take maximum advantage of the views out to Cockburn Sound.

Initial examination of design levels for the Bay View subdivision plus the design levels for Beeliar Drive show that a retaining wall will be required along the boundary with Beeliar Drive plus internal retaining walls. The cost of these walls can only be determined after a contour and feature survey has been prepared and with this information finished levels determined. This survey and earthworks design will be undertaken by consultants experienced in this field. The finished levels will be designed to ensure that the best possible views can be achieved on the site.

Once the design has been completed a subdivisional design will be determined and advice sought from a reputable property expert to ensure the best possible return for the land. The preparation of the Business Plan is a requirement of the Local Government Act as the development is a major land transaction. The Business Plan will be prepared, advertised and open for the receipt of submissions for 6 weeks.



Preliminary estimates indicate that \$30,000 will be sufficient to gain the initial information and advice required for a Land Surveyor, Engineer and Property Consultant.

Preliminary assessment indicates that the land will be divided into 3 individual unit sites which will be sold in accordance with the provisions of section 3.58 of the Local Government Act. The matter of the sale of the lots will be the subject of a future Council decision.

### **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."*

### **Budget/Financial Implications**

Funds are available in the Business Plan Account GL 116 – 6218 to meet this allocation. The monies allocated will be used to gain specialist consultant advice on aspects of the project necessary for the preparation of the Business Plan.

### **Legal Implications**

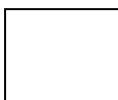
A Business Plan will need to be prepared in accordance with section 3.58 of the Local Government Act 1995 and presented to the Council for its consideration.

### **Community Consultation**

The Business Plan will need to be advertised for public comment as provided for under the Act.

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

Land development and sales can be undertaken by the private sector.



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

**15.1 (MINUTE NO 2387) (OCM 20/04/2004) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors paid for March 2004, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr A Tilbury that the recommendation be adopted.

**CARRIED 8/0**

**Background**

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

**Submission**

N/A

**Report**

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 (MINUTE NO 2388) (OCM 20/04/2004) - TENDER NO. 02/2004 - AUDITING SERVICES - INTERNAL (5017) (DMG) ATTACH)**

**RECOMMENDATION**

That Council accepts the tender from Barrett and Partners – DKF for Tender No. 02/2004, Auditing Services – Internal, for a four (4) year period (2004-2007), at the sum of \$38,500 (GST inclusive).

**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Cllr A Tilbury that Council defer consideration of this matter to the June Ordinary Council Meeting.

**CARRIED 8/0**

**Explanation**

The recommended tenderer for the performance of Council's internal audit function for the timeframe 2004-2007 is Council's current external auditor.

An external auditor's independence may be viewed as being jeopardised by having a dual role in the control process, thereby contributing to organisational risk. Independent external auditors attest to management assertions regarding the financial statements. As significant participants in the internal control process, internal auditors provide management with information to formulate their assertions. If external auditors perform the internal auditing function, and attest to management assertions about the internal control system, they essentially are attesting to an activity in which they have directly supported management assertions. This can be seen as an impairment of their independence.

In view of recent high-profile corporate collapses, Council values the minimization of organizational risk.

Council will consider the appointment of external auditors at its May Ordinary Council meeting. Council believes it should wait until it appoints its external auditors before appointing its internal auditors.



## Background

In 2000, Council appointed KPMG to conduct an annual Audit of the internal financial and non-financial management systems and procedures of Council for a four (4) year period (2000-2003). In September 2003, Council resolved to call Tenders for this service for the period 2004-2007. Deputy Mayor Graham has requested this tender be placed before Council for determination.

## Submission

Submissions were received by the closing date of tenders, details of which are attached.

## Report

Five (5) compliant tenders were received following the closure of the advertising period on 16 March, 2004.

The following criteria and weighting values were used to assess each Tender.

CRITERIA DESCRIPTION	WEIGHTING
Experience in providing similar services	25%
Skills/experience of key personnel	15%
Tenderers Resources	10%
Understanding of task	10%
Tendered price / evaluated cost	40%
<b>TOTAL</b>	<b>100%</b>

The scope of the Audit requires the successful Tenderer to carry out such work as necessary to form an opinion as to the adequacy and effectiveness of:

- System compliance;
- Internal controls;
- Identification of possible risks;
- Operational efficiencies and effectiveness, with an emphasis on those areas with greater risk exposure; and
- Compliance with approved policies and procedures, regulations and relevant legislation.

The work should include, but is not limited to:



**Financial**

- Revenue
- Payroll
- Fixed Assets
- Procurement
- Payments
- Annual Report/Principal Activities Plan

**Non Financial**

- Local Laws
- Commercial Activities
- Elections
- Council Meetings and Administration
- Delegations of Authority
- Disclosure of Financial Interests

Tenders were assessed by the Director – Community Services and Manager – Community Services.

<b>Tendered Prices</b>	<b>\$</b>
Barrett & Partners	38,500
Haines Norton	67,320
KPMG	56,892
PKF	58,465
Stamfords	105,006

Scores were assessed as follows:-

<b>Tenderer's Name</b>	<b>Non-cost criteria</b>	<b>+ Cost Criteria</b>	<b>= Assessment Score</b>
Barrett & Partners	51.75	40	91.75
Haines Norton	45.5	29	74.5
KPMG	51.5	33	84.5
PKF	37.25	32.4	69.65
Stamfords	37.25	14.7	52.45

On balance, Barrett and Partners represents the best value tender on the basis that it is able to demonstrate a clear understanding of the required outcomes and undertake the task in a timely, cost efficient manner.

**Strategic Plan/Policy Implications**

Key Result Area “Managing Your City” refers.

**Budget/Financial Implications**

Funds available in Council’s Municipal Budget for this purpose.



## Legal Implications

Sec. 3.57 of the Local Government Act, 1995, Part 4 of the Local Government (Functions and General) Regulations and Reg. 5(2)(c) of the Local Government (Financial Management) Regs refer.

## Community Consultation

Advertisement placed in "West Australian" Newspaper closed 16 March, 2004.

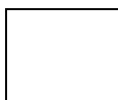
## Implications of Section 3.18(3) Local Government Act, 1995

Nil.

### 15.3 (MINUTE NO 2389) (OCM 20/04/2004) - BUDGET REVIEW - PERIOD ENDING 31 OCTOBER 2003 (5402) (ATC) (ATTACH)

<b>RECOMMENDATION</b>			
That Council amend the Municipal Budget for 2003/04 as follows:			
<b>A/c No.</b>	<b>Description</b>	<b>Current Budget</b>	<b>Proposed Budget</b>
		<b>\$</b>	<b>\$</b>
GL 855-6702	Insurance - Professional Indemnity	105,000	0
GL 855-6704	Insurance - Public Liability	407,500	382,540
CW 1218-6210	Purchase new PC	0	2,200
GL 730-5305	Building Licences	-580,000	-610,000
GL 730-5306	Built Strata Fees	-4,000	-5,000
GL 730-5393	Non-Compliant Building Assessment Fee	-8,500	-10,500
GL 730-5410	Sale - Plan Copies/Building Statistics	-11,000	-14,500
GL 730-6000	Salaries	373,131	396,531
GL 730-6160	Contract Salaries	24,400	0
GL 730-6255	Engineering Expenses	4,500	7,000
OP 9841-6000	Scanning Expenses	33,698	34,698
GL 110-6110	Conferences and Seminars	50,000	70,000
GL 845-6998	OP9871-6200 - Workshop Maintenance	5,000	0
CW NEW	Admin Centre East Car park- Extend security cameras	0	25,000
OP 6049-6210	Centenary Hall Maintenance	0	4,118
09 6049-6501	Centenary Hall Maintenance	0	5,100
CW 4016-6200	Fire Protection - Administration Building	165,562	155,562
CW 4111-6501	Coogee Community Hall - Upgrade kitchen	20,000	30,000
OP 6083-6200	Azelia Ley - Remove Kiosk Carriages	0	7,000
CW 1008-6210	Furniture & Equip - Facilities Maintenance	22,000	23,500
OP 9896-6501	Building Maintenance Contingency	11,654	14,654

CW NEW	Yangebup Hall - Kitchen Upgrade, Storeroom, Landscaping	0	50,000
GL 100-5015	Part Year Rating	-247,122	-500,000
CW 1220- 6210	Computer Equipment - GIS	8,500	12,500
GL 873-6299	Software Support Expenses	49,166	50,166
GL 873-6229	Consultancy Expenses	8,000	5,000
GL 140-6100	Superannuation	28,949	53,000
CW 1204- 6210	Computer Equipment - General	154,460	158,060
GL 125-6341	Small Computer Hardware Purchases	0	15,000
GL 125-6600	Communication Expenses	60,000	45,000
OP 9825-6200	Record Museum Collections	13,410	15,800
CW NEW	Harvest Lakes (Harmony Primary School) Bore Construction Pump and Electrics	0	40,000
OP 5005-6200	CY O'Connor Beach Signage	27,485	36,000
OP 5141-6200	Civic Centre Bore / Pump	29,000	33,000
OP NEW	Harvest Lakes (Harmony Primary School) Oval Maintenance	0	7,000
OP NEW	Entry Statements Program (* See Notes)	0	500,000
OP NEW	South Lakes Beautification Program * (See Notes)	0	300,000
CW 1317- 9900	Trade In Utility (Roads Maintenance) - Plant #2581	0	-11,000
CW 1317- 6210	Roads, replacement of plant no 2581	0	17,000
CW 1317- 6210	Roads, replacement of plant no 2791	17,000	22,500
CW 1311- 6210	New 5 Gang Hydraulic Trailing Mower (Parks)	431,100	376,100
CW 1311- 6210	Truck, mowing, crew cab with tray (Parks).	376,100	427,100
CW 1311- 6210	Trailer, mowing (Parks)	427,100	440,100
CW 1320- 6210	Welder Mig in workshop	1,000	4,200
OP 180-6278	Minor Furniture and Equipment	2,200	4,375
CW NEW	Purchase new PC	0	2,200
GL 131-6234	Consumables (Photocopier)	45,000	40,000
GL 131-6348	Copy Cost Charges (Photocopier)	22,000	27,000
GL 481-5110	Non-Recurrent Operational Grant	-40,000	-45,000
OP 9551-6200	Annual Junk Collection	53,000	58,000
CW 2108- 6200	North Lake Rd / Beelihar Drive	25,000	30,000
CW 2109- 6200	Farrington Rd/Murdoch Drive	67,000	62,000
CW 2030- 6200	Progress Drive (Gwilliam/Hope)	25,000	52,500
CW 2033- 6200	Osprey Dr	26,616	17,450
CW 2035- 6200	Mell Rd - Intersection Treatment	9,311	0
CW 2049- 6200	Barrington St (Reprofile Rail Crossing)	15,000	10,000
CW 2057- 6200	Rollinson Rd (Cockburn/railway) - Widening	65,108	0
CW 2119- 6200	Bibra Dr/ Hope Rd - Modifications	40,000	28,000





CW 6200	2122-	Lintott Way/Galian Way - Extend drainage system	55,000	70,000
CW 6200	2127-	Semple Crt (Verna/Thomas) - Kerb and drain	60,000	1,000
CW 6200	2129-	Lydon Bld/Atwell Primary School - Carpark stage 2	10,000	0
CW 6200	2130-	Mosedale Rt/Atwell Primary School - Carpark	25,000	0
CW 6200	2134-	Drainage System Refurbishment	40,000	80,000
CW 6200	2136-	North Lake Rd- Upgrade parking area	13,500	11,000
CW NEW		Goldsmith St - Kerbing	0	22,000
CW NEW		Henderson Rd Street Lighting-(Russell Rd-Fancote)	0	14,000
CW NEW		Farrington Rd [Murdoch/Bibra] - New street lighting	0	50,000
CW 6200	2500-	Resurfacing program	143,635	193,635
GL 845-6998		Jandakot & South Coogee VFB & CVES	0	38,867
CW NEW		Computer Replacement Safer Cities	0	2,300
GL 172-6234		Consumables (neighbourhood Watch)	5,500	5,900
GL 171-6804		Community Policing 2003/04 Contribution	0	10,000
GL 549-5324		Cockburn Tennis Club - Lease	-1,000	0
GL 557-5324		Coastal Motor Cycle Club - Lease	-4,200	-2,758
OP 9007-5101		Youth Festival	-2,000	-6,000
OP 9419-5110		Cockburn Community Development Strategy	-10,000	0
GL 545-6266		Leasing Expenses	3,000	0
GL 845-6998		OP9001 Yangebup Child Health Centre	0	2,883
GL 845-6998		OP9003 Activities - Increase Usage	0	16,865
OP 932-6810		Community Recreation and Education Grants	50,000	100,000
OP 9419-6200		Cockburn Community Development Strategy	20,230	29,230
OP 9007-6200		Youth Festival	14,000	18,000
GL 915-7192		Community / Recreational Facilities Reserve Fund	230,000	730,000
OP 9861-5750		Town Planning Studies Contribution	0	-18,915
OP 9861-6200		Town Planning Studies	29,157	48,072
GL 620-6600		Communication Expenses	4,000	9,300
GL 960-7132		Major Building Refurbishment Reserve Fund	691,500	1,251,715
GL 915-7201		YAC Canberra Excursion Reserve Fund	0	10,000
GL 480-550		Rubbish Charges Levied	-4,793,000	-4,893,000
GL 485-5560		Rubbish Tip Fees	-3,159,602	-4,400,000
GL 485-5488		Reimbursement Landfill Levy	-270,000	-480,000
GL 485-5562		Household Tip Fees	0	-512,000
GL 485-6811		Landfill Levy	270,000	480,000

\*Note: Subject to detailed report on design, construction and maintenance costs before work undertaken.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY**

**COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr M Reeve-Fowkes that Council adopt the recommendation subject to the following:

- (1) New Account – Entry Statements Program – Increase from \$500,000 to \$600,000;
- (2) New Account – Coogee Beach Car Park Improvements - \$21,700;
- (3) A/c. No.GL960-7132 – Major Building Refurbishment Reserve Fund being decreased from \$1,251,715 to \$1,130,015;
- (4) a report be prepared on the effectiveness of the proposed camera system for the Administration Centre east car park and presented to Council for consideration.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0**

**Explanation**

The intersection of Spearwood Avenue and Stock Road, eastern side, has had extensive works carried out and the true value and potential of those works cannot be reached while the opposite side of the road is a messy sandpit. This is a major intersection with traffic sitting at these lights for quite lengthy periods of time and the beautification of the western side would complete the intersection works and provide a major social benefit to our City. In addition, funds are required for improvements to the Coogee Beach Car Park to minimise anti-social behaviour in the area.

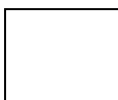
In regard to the proposed camera system it was felt that the current security system is not working in a satisfactory manner. Cars have been stolen from the car park and numerous cars broken into. Before extending the system, a report is required.

**Background**

Council reviews its Budget twice each year for the periods ending October and February.

**Submission**

N/A



**Report**

A report on the review of the Municipal Budget for the period 1 July 2003 to 29 February 2004 is attached to the Agenda.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

A number of amendments to the Budget are recommended.

**Legal Implications**

N/A

**Community Consultation**

N/A

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

Nil

**15.4 (MINUTE NO 2390) (OCM 20/04/2004) - REPORT ON FINANCIAL STATEMENTS (5505) (NM) (ATTACH)**

**RECOMMENDATION**

That Council receive the Report on the Financial Statements for the first tri-annual period ending 29 February 2004, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED 8/0**

**Background**

Section 6.4 of the Local Government Act 1995 requires the City to prepare financial reports as are prescribed. Regulation 34(1)(b) of the Local Government (Financial Management) Regulations 1996, prescribes that a local government is to prepare either quarterly or tri-annual financial reports. Council has elected to receive tri-annual



financial reports, which are due for periods ending 31 October, 28 February and 30 June.

Further, Regulation 34(1)(a) allows councils to resolve not to receive a report for periods ending 30 June. Council has previously resolved not to receive this report as it is deemed unnecessary due to the preparation and presentation of annual financial statements.

### **Submission**

N/A

### **Report**

Attached to the Agenda are the following financial statements for the period ending 29 February 2004, together with a report setting out comments on each statement.

#### Operating Statement

The Operating Statement details operating income and expenditure at a statutory program level and compares it to the adopted budget. Also included is the projected budget, which incorporates budget amendments and revisions (including those of the February 2004 budget review).

#### Municipal Summary of Financial Activity

The Municipal Summary reports both operating and capital income and expenditure and reconciles these back to a cash position.

#### Statement of Reserve Funds

This statement reports the current balance for all reserve funds and provides details of interest earnings and of transfers in and out of each reserve.

#### Restricted Funds Analysis

This statement summarises bonds, deposits and infrastructure contributions held by Council as at the reporting date. These funds are deemed restricted in accordance with Accounting Standard AAS27. There has been minimal movement in the value of restricted funds during the reporting period.

#### Investments Report

Council's Investments Policy (Corporate Policy - SFCS1) requires a report to be submitted to Council with details of the investment portfolio



including performance figures and the extent of exposure to categories restricted by the Policy.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

The February 2004 Budget Review addresses all significant variations of a permanent nature identified as at 29 February 2004.

**Legal Implications**

Nil

**Community Consultation**

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (MINUTE NO 2391) (OCM 20/04/2004) - BUDGET REVIEW WORKS - BEELIAR DRIVE/HAMMOND ROAD - TRAFFIC SIGNALS (450953; 450012) (JR) (ATTACH)**

**RECOMMENDATION**

That Council receive the report and proceed with the traffic signal works proposed for the Beeliar Drive/Hammond Road intersection should Emmanuel Catholic College not contribute towards the basic construction of Kemp Road.

**COUNCIL DECISION**

MOVED Cllr I Whitfield SECONDED Cllr V Oliver that Council

- (1) prefers the construction of Kemp Road as Council's solution at this stage to alleviate traffic congestion at the Beeliar Drive/Hammond Road intersection; and
- (2) requests Emmanuel College to forward their 50% contribution to



the construction of Kemp Road to allow it to be completed this financial year.

**CARRIED 8/0**

### **Explanation**

At the planning approval stage, it was agreed that Kemp Road was an integral part of the traffic flow pattern around the school. The buildings and internal layout was approved on this basis. It is considered important that Kemp Road be built as soon as possible in an effort to reduce traffic congestion at the Beeliar Drive/Hammond Road intersection caused in the main by parents dropping off and picking up their children at the school.

### **Background**

At the Ordinary Meeting of Council held on 16 December 2003, the Budget was reviewed and amended. An amount of \$80,000 was allocated for Beeliar Drive/Hammond Road – Traffic Signals, subject to a report being presented to a future Council Meeting before work commences on the project.

At the Ordinary Meeting of Council held on 17 February 2004, the report was presented and Council resolved that the matter be deferred to allow for an investigation into the establishment of a roundabout at the Beeliar Drive/Hammond Road intersection rather than traffic signals.

The Beeliar Drive/Hammond Road intersection is a potentially hazardous high speed intersection near the new Emmanuel Catholic College. Traffic congestion at school drop-off and pick-up times accentuates the potential hazard.

### **Submission**

At the planning approval stage, it was agreed that Kemp Road was an integral part of the traffic flow pattern around the school. The buildings and internal layout was approved on this basis. It is considered important that Kemp Road be built as soon as possible in an effort to reduce traffic congestion at the Beeliar Drive/Hammond Road intersection caused in the main by parents dropping off and picking up their children at the school.

Council wishes to make Beeliar Drive a 'preferred use' road to relieve congestion on Farrington Road and Progress Drive. Therefore Beeliar Drive must be as free as possible and a roundabout would serve this purpose better.



## Report

A concept roundabout for the intersection is shown in the attachment to the Agenda. A preliminary estimated cost of building the roundabout is \$200,000.

The proposed traffic signals or roundabout treatment at this stage are to alleviate traffic congestion and delays at the intersection of Beeliar Drive and Hammond Road south due to the AM and PM peak hour traffic generated by Emmanuel Catholic College and to improve the safety of traffic turning movements during these times.

Traffic signals are more cost effective than a roundabout and are the preferred option, as the existing intersection layout has been purposely designed and built for future traffic signals.

Main Roads indicated before that one of the determining criteria for them to approve traffic signal installation would be when the traffic volume in Hammond Road south exceeds 10,000 vehicles per day. (Currently 4000 vpd). Thereby, it is unlikely that Main Roads will support a traffic signal treatment for the intersection at present, but may do so should Council fund the installation.

A roundabout treatment is not recommended for the intersection at this stage. The treatment will achieve similar results as traffic signals, but at a cost – land acquisition alone could cost \$20,000 and total estimated construction cost including land acquisition is \$200,000. The difference between the roundabout and traffic signal treatment is that the roundabout will shift the traffic delays from Hammond Road south to Beeliar Drive, which carries regional traffic.

Currently, Beeliar Drive carries 12,000 vehicles per day while Hammond Road south 4,000 vpd. If a roundabout is installed at the intersection, a likely scenario will be that for every one vehicle which has already entered the roundabout from Hammond Road south, 3 vehicles from Beeliar Drive will have to give way before entering the roundabout. This may result in traffic delays and traffic build-ups in Beeliar Drive.

The City commissioned Uloth and Associates in March 2003 to undertake assessment of road network options for Beeliar Drive near the Hammond Road area. The conclusion of that study recommended Sub-Option 3A, as attached to the Agenda, as the long-term solution (year 2026 and beyond) having regard for:

- Access for Proposed Business Site,
- Access for Emmanuel Catholic College,
- Traffic delays for Regional Traffic,
- Traffic delays for Mixed Business Traffic,
- Pedestrian/Cyclist road Crossing Facilities,



- Road Network Legibility, and
- Land Requirements.

This does indicate an ultimate roundabout solution when traffic volumes have built up in Hammond Road to become more equitable in volume to Beeliar Drive traffic, and Hammond Road comprises 4 lanes. It also shows an alternative link to the school.

Council has also allocated funds during the last Budget review to build this alternative link to the school, known as Kemp Road, where it extends directly to Beeliar Drive, as a basic road and subject to a 50% contribution from Emmanuel Catholic College. The College has indicated that they may make the contribution, but as yet have not formalised their intended contribution. The estimated cost of this basic road is \$48,000.

Construction of the link road (Kemp Road), according to the College, will lessen the traffic congestion at the intersection of Beeliar Drive and Hammond Road south, as Kemp Road becomes an additional access to the College.

It is considered that the traffic signals should be installed as the most cost-effective intersection improvement. Should funding be made available for the construction of Kemp Road, then that road can be built first and the reduction of traffic congestion at the Beeliar Drive/Hammond Road south intersection re-assessed prior to proceeding with the traffic signals.

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

A Council strategic commitment is to construct and maintain roads which are the responsibility of Council, in accordance with recognised standards and convenient and safe for use by vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

The Budget allocation will allow for the completion of the proposed works.

### **Legal Implications**

N/A

### **Community Consultation**

N/A





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

Nil.

**16.2 (MINUTE NO 2392) (OCM 20/04/2004) - PROPOSED TRAFFIC TREATMENT AT PROGRESS DRIVE, NORTH LAKE (450691) (SL/JR) (ATTACH)****RECOMMENDATION**

That Council:

- (1) not proceed with the proposed budgeted traffic treatment at Progress Drive between Hope Road and Farrington Road, North Lake;
- (2) reallocate the funds of \$47,648 from Account No. 2037 – Progress Drive (Farrington/Hope) – Upgrade Traffic Management to the new project Roundabout Safety Improvement Program; and
- (3) advise the respondents to the community consultation of Council's decision.

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

MOVED Cllr A Tilbury SECONDED Cllr L Goncalves that Council:

- (1) proceed with traffic treatment at Progress Drive between Hope Road and Farrington Road, North Lake;
- (2) require a report outlining design options being presented within two months to a future Council meeting, and
- (3) consider the allocation of additional funds to the new Roundabout Safety Improvement Program during its budget deliberations for 2004/2005.

**CARRIED 8/0****Explanation**

Council considers that traffic treatment on Progress Drive has suburb-wide significance. Accordingly, Council takes into account all respondents to the North Lake Residents Association survey, the



results of which indicate that traffic calming on Progress Drive is supported. Council would like to consider detailed design options at a future meeting.

### **Background**

Funds of \$47,648 have been allocated on the current Budget for the provision of further traffic management measures in Progress Drive between Farrington and Hope Roads. Accordingly, a survey of residents in North Lake was undertaken as part of the consultation process. This showed up little support for traffic calming. However, a survey undertaken by the North Lake Residents Association showed support for traffic calming in Progress Drive.

### **Submission**

At the Ordinary Meeting of Council held on Tuesday 15 April 2003, consideration was given to the conflicting survey results and Council resolved to defer making a decision on the proposed traffic treatment on Progress Drive and request that the North Lake Residents Association Inc:-

- (a) forward further details of its survey results to enable comparison with the results of the Council's survey; and
- (b) be requested to advise Council on what traffic calming devices would be preferred by the residents of North Lake;

and that this information be taken into account in any future report to Council on traffic treatments on Progress Drive, North Lake.

Due to unavailability of key members of the North Lake Residents Association to clarify some of the findings of their survey results, a comparison of results has not been possible until now.

Attached to the Agenda are the covering letter, two summaries by the North Lake Residents Association Inc and the Chairperson's reply to Council staff's queries.

### **Report**

Three different stakeholders regarding the proposed traffic management treatment in Progress Drive have undertaken their individual surveys. The responses to the surveys are summarised as follows.

- (1) The City of Cockburn

The results of Council's community consultation are:



- A total of twenty-eight (28) submissions were received from the suburb of North Lake – 9 in favour and 19 against.
- 12 out of the 19 not in support of the proposal requested that Progress Drive be fully or partially closed at the Hope Road roundabout.
- Half of the total submissions (ie. 13) came from the householders in Progress Drive, in which 3 are in favour of the proposal and 10 against.
- The North Lake Residents' Association was in support of the proposal. In addition, it proposed to cul-de-sac Progress Drive and/or Hope Road and the provision of further dual used paths in Progress Drive.

(2) The North Lake Residence (sic) Support Group (NLRSG)

A member of the North Lake Residence (sic) Support Group (NLRSG) (not the North Lake Residents Association), delivered leaflets to all residents of North Lake and arranged a meeting to discuss the “pros and cons” of the proposal. Council Officers were not made aware of or invited to attend this meeting. Following this meeting, a questionnaire was distributed to all North Lake residents by NLRSG. The City was not made aware of this until a few days after the distribution.

The results of the NLRSG's survey are that:

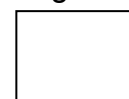
- A total of 21 responses were sent to Council instead of NLRSG, as no return address was specified in the survey – 8 in favour of the proposed traffic treatment and 13 against.
- 5 out of the 13 who are not in support of the proposal, requested that as an alternative treatment, Progress Drive be fully or partially closed at the Hope Road roundabout.

(3) North Lake Residents Association Inc.

Details are shown in the attachments.

It should be noted that among all participants to the Association's survey only three are residents/householders of Progress Drive. The first household did not make any comment on the survey; the second did not support any further traffic treatment; and the last one would like the existing traffic calming devices to be improved.

The low number of participants from Progress Drive marks a sharp contrast to Council's survey (13 Progress Drive



households or 50% of all responses to the survey, with only 3 in favour of further treatments).

The second point that should be noted is that the Association asked in Question 1 if one would support traffic calming, whereas Council's survey asked a very specific question if one would support the chicane treatments shown in the drawing.

In view of the general opposition for further traffic management treatments in Progress Drive by the fronting residents, being the people mostly affected by traffic in Progress Drive and any proposed treatment, it is considered that no further treatments should be undertaken. The issue relating to closures at the Progress Drive/Hope Road intersection has been separately addressed by Council.

Following a Coroner's Report into two recent motorcycle fatalities involving small limestone walls built into roundabouts, a recommendation has been made to local authorities to ensure there are no obstructions in roundabout constructions that would increase the severity of motorcycle accidents. This includes limestone walls, barrier kerbing, non-friable structures etc. that may come in contact with errant motorcyclists. Council will need to check all its roundabouts and undertake modifications to comply with this recommendation. It is considered that the funds made available from the Progress Drive traffic treatment project, should it not proceed, should be utilized in a roundabout safety improvement program.

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

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

1. Facilitating the needs of Your Community
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
2. Maintaining Your Community Facilities
  - *"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**

There is \$47,648 in the current Budget for the capital work (CW2037). Should the project be cancelled, funds can be transferred to other projects.



**Legal Implications**

Nil.

**Community Consultation**

Residents in Progress Drive, North Lake were consulted on the proposal. Plans were also displayed at the Spearwood and Coolbellup Libraries and on Council's website and information signs were erected on Progress Drive and the adjoining roads to alert motorists of the proposed modifications.

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES****17.1 (MINUTE NO 2393) (OCM 20/04/2004) - DISABILITY HOUSING PROJECT - PORTION OF RESERVE 42381 CNR REDMOND AND HEALY ROADS, HAMILTON HILL (GB) (8413) (2212119) (ATTACH)****RECOMMENDATION**

That Council:

- (1) Support the establishment of residential accommodation for the Multiple Sclerosis Society on approximately 1100 square metres of reserve 42381;
- (2) Request that the Department of Planning and Infrastructure excise and create a parcel of land of approximately 1100 square metres in size from Reserve 42381 to allow for the development of residential housing for people with disabilities.
- (3) Give consent for the transfer of the newly created land parcel to the Multiple Sclerosis Society.
- (4) Subject to the residential development proceeding enter into a peppercorn lease agreement for a period of 21 years for a portion of Lot 100 Redmond Road Hamilton Hill for the development of car parking space subject to the existing drainage function of the site not being compromised
- (5) Advise the Multiple Sclerosis Society that all costs associated with the development and operating of the residential accommodation and the parking provision are to be borne by the Society.

**COUNCIL DECISION**

MOVED Clr I Whitfield SECONDED Clr A Tilbury that the recommendation be adopted.

**CARRIED 8/0**

**Background**

At the City of Cockburn's Disability Advisory Committee planning day in December 2000 it was acknowledged that a gap in services existed for people with a disability obtaining appropriate housing in the Cockburn district.

In response to the committee position a report titled the 'Housing Needs For People with a Disability' was prepared by Lisa Mc Andrew and published in November 2001.

Eighteen (18) Recommendations were made in the report. One of the key recommendations as regards to the proposal at hand is:

**Recommendation 1:**

*"That City of Cockburn takes an active role in the provision or development of services/policy or projects that support people with disabilities accessing accommodation."*

In response to the report a suitable site located at Reserve 42831 on the corner of Redmond Road and Healy Road Hamilton Hill where the Jean Willis Centre is located has been identified.

**Submission**

The Multiple Sclerosis Society has written to Council requesting the opportunity to develop residential housing options for people with Multiple Sclerosis and other neurological conditions. The MS Society envisages that there would be a small village complex of up to 6 units with a common area for a commercial kitchen, community meeting space, and laundry.

The MS Society is proposing that if the development took place they would be responsible for the following:

- Engaging other key stakeholders to ensure funding for the excision of the land, the concept design and architectural works, the site and building costs, outfitting of the units, and the recurrent funding for managing and staffing both facilities and all other outgoing cost.
- Ensuring that first priority is given to residents of the City of Cockburn.



## Report

In February 2002 a meeting was held between administrative staff, and Ms Debbie Karasinski, Chief Executive Officer of the Multiple Sclerosis Society WA, to discuss the possibility of a joint venture disability housing project between the two organisations.

The Ms Society was keen to find land to develop a second accommodation facility in the metropolitan area for people with multiple sclerosis. As the City had recently published its report on disability housing needs in the district, it was also interested in pursuing joint venture discussions.

### The Multiple Sclerosis Society WA

The Multiple Sclerosis Society of WA (MS Society) is an incorporated society headed by a Board of Directors, which has been in operation since 1973.

60% of its income is derived from self-generated fundraising with the balance provided by Disability Services Commission (DSC) and Commonwealth and State Health Departments.

Its 2000/2001 report states that the membership of people diagnosed with multiple sclerosis now stands at 1686. Services that the society provides to its members include: the 'Fern River' supported accommodation facility, in-home care, respite care, physiotherapy and massage, outreach groups, carer provision, community nurses, social work, occupational therapy, camps, training, and research into Multiple Sclerosis.

In the unlikely event of the MS Society facing financial difficulties in the future, the DSC would be called upon to assist financially, as without the service currently provided by the MS Society it would then revert to the responsibility of DSC to support people with multiple sclerosis.

### "Fern River" Supported Accommodation Facility

The 'Fern River' complex was the first residential accommodation facility developed by the MS Society in 1997. It is located in Fern Road, Wilson and is made up of 6 family units accommodating 7 people with multiple sclerosis requiring very high levels of support. The facility is seen as a show case for high support need housing, set up along disability model lines with clients being supported to lead individual lives as independently as possible within the complex. The units are set up with electronic devices to give clients a strong degree of control over their environment and the facility also offers 24-hour care on site for when it is required.



City of Cockburn Disability Advisory Committee

As a result of the report on Housing Needs For People with Disabilities the Disability Advisory Committee formed a sub committee to investigate accommodation options and proposals.

Following a number of meetings with the subcommittee a letter and proposal was received by the City in November 2003 from the current Chief Executive Officer of the Multiple Sclerosis Society WA Mr Marcus Stafford requesting that the City of Cockburn Disability Advisory Committee consider supporting the use of the vacant crown land vested with the City adjacent to the Jean Willis Centre on Redmond Road Hamilton Hill for the purpose of a residential housing development for people with disabilities. The MS Society also stated their interest in negotiating a lease sometime in the future for the Respite House if the residential development takes place.

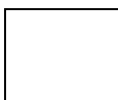
After considering the proposal the December 2003 Disability Advisory Committee meeting put a recommendation that:“ The Disability Advisory Committee supports in principal the proposal by the MS Society for the development of residential housing for people with disabilities on land adjacent to the Jean Willis Centre and to investigate entering into a lease agreement with the MS Society for the Respite House at the Jean Willis Centre.” The motion was unanimously accepted by members of the Committee.

The Proposed Site

The preferred site is located at Reserve 42831 on the corner of Redmond Road and Healy Road Hamilton Hill where the Jean Willis Centre is located. The centre accommodates a City of Cockburn service for the aged and disabled. The Cockburn Community Care manager has expressed a keen interest in supporting and collaborating with the proposed accommodation project, as regards to sharing of services and facilities.

The reserve is comprised of crown land vested with the City by the Department of Planning and Infrastructure for the purpose of Community and Recreation activities. An approximately 1100 square meters portion of the reserve is currently not being utilised by the City, which is the proposed development site.

Adjacent to the area is a drainage sump located at 100 Redmond Road Hamilton Hill that the City is planning to beautify. In order for the development to be viable a portion of this lot would need to be leased to the MS Society to develop car-parking bays. The Engineering Department has investigated this site. In order for car parking space to be located on this lot telephone, and power services would need to be relocated. However this could be done without compromising the





drainage function of the site and would be at the expense of the MS Society.

The MS Society have stated in their proposal that they will be fully responsible for meeting all costs associated with the administration and all outgoing costs for the development and operation of the residential housing development. The land is Crown Land so should the Department of Planning and Infrastructure and the Minister agree it would be vested or transferred to the Multiple Sclerosis Society at no financial cost to the City.

The transfer of the vesting of the crown land from the City to the MS Society would relieve the City of responsibility should the management of the accommodation and services not be viable at some future date.

By facilitating this development the City would be implementing recommendations in the "Housing Needs for People with Disabilities Report".

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

Facilitating a range of community services responsive to Community needs.

### **Budget/Financial Implications**

There will be no capital or operational financial obligations placed on the City with this project.

### **Legal Implications**

Section 3.58 of the Local Government Act is not applicable in this case due to the charitable status of the Multiple Sclerosis Society.

### **Community Consultation**

The November 2001 "Housing needs for People with Disabilities" Report included extensive community consultation and needs identification.

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

Nil.

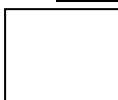


**17.2 (MINUTE NO 2394) (OCM 20/04/2004) - MANNING PARK OUT DOOR CINEMA (2207525) (RA)**

**RECOMMENDATION**

That Council:-

- (1) receive the Registration of Interest from Medex Pty Ltd trading as VirCon Entertainment;
- (2) enter a 3 year license agreement with an option for a further 3 years extension with Medex Pty Ltd for an out door cinema on Manning Park subject to:-
  1. The Western Australian Planning Commission approving the Licence Agreement with Medex Pty Ltd in accordance with the terms of the lease with Council.
  2. Medex Pty Ltd agreeing to:-
    - (a) a license fee as follows:
      - Year 1 5% of gross ticket sales
      - Year 2 5% of gross ticket sales
      - Year 3 7.5% of gross ticket sales
      - Year 4 and on 10% of gross ticket sales
    - (b) providing at its cost all additional infrastructures required in establishing the outdoor cinema with aesthetics of the infrastructure to be in keeping with the area and to the requirements of the Council;
    - (c) ensuring that the area used for its activities including the toilets, are kept clean and pay for all costs associated with the removal of rubbish and clean up;
    - (d) ensuring that the area used for its activities is kept tidy by the placement of all litter from the site into the rubbish bins provided, prior to the next collection;
    - (e) ensuring that the public toilets used by cinema patrons are kept clean to acceptable Council standards by professional cleaners.
    - (f) ensuring at the end of each out door cinema season all equipment and structures established are removed and the area reinstated to the satisfaction of Council;



- (g) pay all cost that may arise in the establishment and ongoing operation of the outdoor cinema;
  - (h) the Licence being operative for the period 1 December to 31 March annually, with Council reserving a right of exclusive access to the area for a period of up to 10 days during the Licence period for the conduct of Council initiated functions and other events; and
  - (i) provide a cash deposit of \$5,000 to Council to cover against any disputed expenses associated with the operation.
- (3) Permit VirCon Entertainment to sell food and alcohol on site on the understanding that Council reserves the right to withdraw this permission if it believes the sale of liquor is creating problems on the park or adjoining areas, subject to complying with statutory requirements.

#### **COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr A Tilbury that Council adopt the recommendation subject to the inclusion of Clause 4 to read as follows:

- (4) enter into dialogue with Vircon Entertainment to explore the possibility of further utilising Manning Park for additional major community events such as "Classics in the Park", which could feature a major orchestra like WASO performing in Cockburn, comedy festivals or other types of entertainment being established.

**CARRIED 8/0**

#### **Explanation**

Manning Park is a magnificent location that could be greater utilised to provide entertainment and family social activities to greater Cockburn and the region. There is the weather, the location and the will to establish a classic outdoor event at this location, and whilst the Outdoor Cinema is a wonderful initiative Council should fully support it does not go far enough. Given the resource Council commits to this park, its usage should be optimised.



## **Background**

Council at its meeting of the 19 August 2003, resolved to amongst other matters, call for Registrations of Interest (ROI) for an operator for an outdoor cinema at Manning Park. An advertisement duly appeared in the West Australian on the 17 January 2004.

Manning Reserve is leased from the Western Australian Planning Commission which approved the previous license agreement between the City and Lakeside Cinemas.

## **Submission**

One Registration of Interest was received from Medex Pty Ltd of Unit 5/205 Alexander Road Belmont WA 6104.

## **Report**

The Registration of Interest provided by VirCon conforms to the requirements of the ROI and provides a credible overview of the firm and the Directors' credentials. The Directors have extensive experience in the media and as major event organisers. Vircon have a current lease for Movies By Burswood, including ten virtual concert programmes.

Vircon have proposed that they will run the movie nights in January February and March 2005 on Thursday, Friday and Saturday nights in the first year. They wish to monitor the financial performance and the level of attendance in this year before committing to alternative and possibly extended days and months. The preferred option is for the Council to allow within the license for VirCon to operate within the months of December of one year to March of the following year for four nights per week. This arrangement will allow Vircon to alter their level of operation in line with demand. It is suggested that there should be included within the license agreement a requirement for VirCon to operate for at least 40 days between the months of December and March i.e. within the 4-month period. It is proposed that within the lease period that the lessee has possession of the site from 5.00 am to 12.00 midnight, or the days usage.

Council currently provides four (4) sunset concert events each year usually on a Sunday night in February. There is some community expectation that these continue or at least that there are some free events in Manning Park. It is proposed that Council require within the license agreement the capacity to have on up to five (5) occasions, from 1 January of each year to the end of the license period for that year, access to the shell and the adjoining area at no cost and within the period of the license, prior to 1 January of each year, access to the facilities on two (2) occasions. This will allow scope for events such as the Carols by Candlelight and Sunset Concerts. As described below



there is an offer for residents to have one free pass to the cinema each year.

The proponent is seeking to establish a temporary projection box on site and run 35mm and/or 16mm film. They have sought from Council approval to fix the screen to the front of the Music shell, which will allow for the screen to be retractable or readily removed. This is aesthetically a better option than the establishment of a freestanding screen. Provided that the screen can be moved to allow for the use of the stage area this proposal should be supported subject to the structure being certified by a suitably qualified engineer as being sound.

VirCon advise that they intend to target the family market as this appears to best meet the demographic of Cockburn. The anticipated films will be recent releases on Thursday and Friday nights and new release on Saturday nights for the first year. Once again the market will be tested and the program modified if this is deemed to be necessary.

VirCon have sought Council approval to supply food from the venue and for a liquor license. The previous operator of the outdoor cinema was approved for these activities and it is reasonable that this arrangement be extended to any new operator provided that all statutory requirements are met and maintained.

A power supply and suitable lighting and power sub metering is already in place. The toilets are readily at hand. It is proposed that VirCon pay for the power and the cleaning of the toilets. Water consumption is considered to be negligible and the cost of metering in excess of any short-term return.

VirCon have sought support from Council for publicity. A proposal has been put that the City provide once per year the rear page of the Cockburn Soundings to advertise the start of the Cinema and the program. For this the residents of the City will be given one free family pass as a cut out from the Soundings. The cost of one page of the Soundings delivered to all ratepayers/residents is \$1,300. The offer of the free family pass appears as a mutually advantageous arrangement to residents/ratepayers of the City and VirCon and should be supported. There has also been a request from VirCon for Council to pick up the rubbish at no cost. On the basis of 10 additional bins being picked up within the existing schedule of service for Manning Park over a three-month period the cost would be \$1,068.

Within the ROI there was a requirement for a bond of \$10,000. VirCon believe that this figure is too high as it likely to make up a significant portion of the income generated from the venture. A bond of \$10,000 could be considered high for a three-month period and a figure of \$5,000 more appropriate particularly as the only reimbursement the City would be due, besides the lease fee, is power and any minor miscellaneous items. VirCon argue that they will be required to commit



funds to a range of matters to get the venture up and running and a large bond would be an unnecessary and unreasonable demand.

It is recommended that Council only give consideration to a formula based upon a gross turnover figure rather than net turnover. The latter gives a lower return to Council. Further, increasing costs against earnings by the proponent can readily reduce the license fee. A license fee schedule as follows is proposed:-

- Year 1                    5% of gross ticket sales
- Year 2                    5% of gross ticket sales
- Year 3                    7.5% of gross ticket sales
- Year 4 and on        10% of gross ticket sales

It is understood that this fee schedule is acceptable to VirCon.

They are seeking an initial term of three years and an option for a further 3 years. It is noted that the Lakeside Cinema, previous cinema operators fee was 10% of gross turnover.

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

Facilitating a range of services responsive to community needs.

### **Budget/Financial Implications**

There will be a relatively small amount of income generated by the City from the activities of the Outdoor Cinema. It is understood that the Councils intent is to provide a service to the residents of the City. The proposal will provide this service with a very limited financial risk being borne by the City. Costs of \$1068 will be incurred by Council for the removal of rubbish.

### **Legal Implications**

There has been previously permission received from the Western Australian Planning Commission for an Outdoor Cinema to operate from Manning Park.

### **Community Consultation**

The outdoor cinema has previously operated from Manning Park and was generally well received. The proposed operation over three nights in the first year to a maximum of 4 nights per week for the summer period is not likely to cause residents in the area any undue loss of amenity.



The calling of ROI was by advertising in the West Australian and hence a transparent process and in accordance with section 3.58 of the Local Government Act 1995.

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

The operation of the Cinema is through a tendering process involving a private company hence this section does not apply.

### **17.3 (MINUTE NO 2395) (OCM 20/04/2004) - PROPOSED LEASE SOUTH COOGEE AGRICULTURAL HALL (8302)(RA)**

#### **RECOMMENDATION**

That Council:-

- (1) enter into a lease agreement with the Training Ship Cockburn Parent Committee (Inc) for use and control of 793 Rockingham Road Henderson (South Coogee Agricultural Hall), for a period of 5 years with an option for a further 5 years, with the following terms and conditions:-
  - (i) for peppercorn rental:-
    - (a) Lessee is responsible for all maintenance and outgoings associated with the property;
    - (b) all other terms and conditions agreed to the satisfaction of the Chief Executive Officer;
    - (c) the Naval Cadets pay a one off fee of \$1,200 to cover the cost of providing storage space for the relocation of the existing regular user of the South Coogee Agricultural Hall to the Coogee Community Hall;
- (2) grant approval for the construction of a Boat Shed on the site provided that the building meets all requisite statutory planning and building regulations and requirements; and
- (3) grant approval to the Naval Cadets for use of the Clubrooms on the Russell Road reserve on a year-by-year basis until such time as the new boat shed is constructed.

#### **COUNCIL DECISION**

MOVED C/r M Reeve-Fowkes SECONDED C/r V Oliver that Council defer the matter to the May Ordinary Council Meeting in order to allow



further representation by the Grace Gospel Community Church to Council staff.

**MOTION LOST 3/5**

MOVED Mayor S Lee SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 5/3**

### **Background**

The Cockburn Naval Cadets have been operating from the Woodman Point Recreation Reserve for several years. The Department of Sport and Recreation have established arrangements, which allow for the shared use of a range of facilities on the site. The Naval cadets are seeking reasonably extensive training and storage space for their activities, which cannot be accommodated on the Woodman Point site. Given that the area is within a conservation reserve it is unlikely that they would get approval to develop a specific facility to meet their needs or be able to access the necessary funds to do so.

### **Submission**

A submission has been received by the City from the Training Ship Cockburn Parents Committee (Inc) seeking approval to lease the South Coogee Agricultural Hall and the nearby changing rooms on the South Coogee Reserve as the groups' headquarters.

### **Report**

The Cockburn Naval cadets appear as a well-represented group that has financial and administrative support of the Australian Navy. The group advise that it has between \$35,000 and \$40,000 worth of equipment and uniforms and over the next 12 to 18 months depending upon numbers will be eligible for a further \$50,000 to \$80,000 worth of equipment and uniforms on loan. This equipment is required by the Commonwealth to be stored in a secure place. The use of the South Coogee Agricultural Hall meets this requirement.

The South Coogee Agricultural Hall is located on 9105 m<sup>2</sup> of land held by the City in freehold and set aside for community purposes and can be leased.

The hall has limited usage with the Grace Gospel Community Church being the only regular booking each Sunday morning. The group have been approached with an offer to move to the Coogee Community Hall, which is available at the time required. The church group has inspected





the Coogee Hall and have found it to be unsatisfactory for a number of reasons. The objections have been listed below and addressed.

1. "It is not (Coogee Community Hall) in a prominent location and is difficult to get to from the main Road."

Although the Coogee Community Centre is not located on a main road it is still a very popular venue and once users have been to the centre they are able to find their way around the area quite easily. There is good sign posting to the hall. The South Coogee Agricultural hall is on Stock Road but is well away from residential area and set somewhat off the road. Access to the hall coming from the north to the south is difficult as there is no ready right turn into the hall.

2. "Although the size of the hall is larger (Coogee Hall) than the one we currently use, the other rooms are not suitable for use for the Sunday School and Crèche. It is not appropriate to use the kitchen for these purposes as it is obviously well used as a kitchen."

At the South Coogee Agricultural Hall there is a main hall area and a storeroom and a kitchen area. These areas appear as less suitable for the purposes of a crèche and Sunday school than the facilities at the Coogee Community hall where there is a small meeting room off the main hall and at kitchen.

3. "There is no obvious place for us to install our storage cupboards."

As there is only one regular hirer of the South Coogee Agricultural Hall the church has the run of all available storage space. The result is that they have more space than is usually provided. Cupboard space can be made available at Coogee Community Hall at a cost of \$1,200.

The Grace Gospel Community Church has made the statement that it is "... not appropriate for a local Council hall, which has been freely available to the public for hire, to be made available to one group for sole use." As demonstrated below the South Coogee Agricultural Hall as with a number of other halls in the area have limited use and are available to the public for hire. A judgement needs to be made between the benefits of having an under utilised hall remain available for public use and the hall being available exclusively for a group such as the Naval Cadets and hence not available for hire by the general public.

The casual use of the hall for 2002/03 occurred on 14 occasions. With this limited level of use there are other facilities available in the area that would also be available for hire to meet this limited demand.



The Naval Cadets Committee has proposed the following conditions:

- The lease period of 5 years with an option for a further 5 years.
- The lease is for the exclusive use of the Naval Cadets.
- The lessee be responsible for the cost of drawing up the lease.
- The lessee be responsible for all maintenance and service costs
- The annual lease fee be on a peppercorn basis.

The Naval cadets have also sought to have exclusive use of the change rooms / toilets on the adjoining south Coogee Reserve. Whilst these rooms have limited use currently there has been some interest for the Beeliar Junior Soccer Club to use the oval and clubrooms as over flow for their activities on Beeliar Reserve. It is proposed that the Naval cadets only be given access to these change/club rooms on a year by year basis as there may well be a need for these facilities as an over flow from other reserves which have high usage levels.

The Naval Cadets have indicated a desire to in the future construct a boatshed on the hall site once sufficient funds are available and the membership can justify such an action. There is sufficient space on the site for this to occur and should be supported on the condition that the buildings are constructed to the required standard and are located in such a way as to reduce the visual impact from the road and to preserve as much as practical any bushland that exists on the site. It is expected that the cost of any building would be met by Naval Cadet sources.

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

Facilitating a range of services responsive to community needs.

### **Budget/Financial Implications**

For the financial year 2002/03 the operating expense for the building was \$9,067 with an income generation of \$3,979 an operating deficit of \$5,088. The lease of the building to the Naval Cadets under the proposed arrangement would result in a saving to the City of \$5,088 pa.

### **Legal Implications**

Section 3.58 of the Local Government Act deals with the disposal of land (which includes a lease). Section 30 (2) of the Local Government (Functions and General) Regulations, 1996 allows for exceptions which are as follows:

- (b) “the land is disposed of to a body, whether incorporated or not;



- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.”

It is evident that the Naval Cadets can be deemed to be exempt and hence Council is not required to go to public tender to enter a lease arrangement for the use of the hall.

### **Community Consultation**

There are a number of halls available for use by the community in the Coogee Spearwood area. The level of usage of the South Coogee Agricultural Hall has been low for many years and the impact of this building not being available to the general public would be minimal.

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

Nil.

## **17.4 (MINUTE NO 2396) (OCM 20/04/2004) - PROPOSED FEES AND CHARGES - SOUTH LAKE LEISURE CENTRE (8143) (SH)**

### **RECOMMENDATION**

That Council adopt the proposed fees and charges for South Lake Leisure Centre for the 2004/2005 financial year and the new charges take effect from 1 July, 2004.

### **COUNCIL DECISION**

MOVED Clr L Goncalves SECONDED Clr S Limbert that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0**

### **Background**

The South Lake Leisure Centre is the City of Cockburn's premier recreation venue. The Centre has calculated a general price increase based on the increasing costs to provide services and also being cognisant of the need for a competitive price structure for the market place.

### **Submission**

N/A



## Report

The pricing structure for South Lake Leisure Centre caters for all services, offering a variety of payment options for many services. The current and proposed pricing structure for the Centre is as follows.

### Room Hire

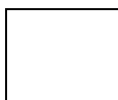
	Current fee	Proposed Fee	Plus GST	Total Fee
Recreation Room Day (until 5 pm)	18.00	16.82	1.68	18.50
Recreation Room Evening (after 5pm)	27.50	25.00	2.50	27.50
Recreation Room Bond	220.00	200.00	20.00	220.00
Sports Stadium Day	26.00	24.55	2.45	27.00
Sports Stadium Evening(after 5pm)	35.00	31.82	3.18	35.00
Sports Stadium Bond	550.00	500.00	50.00	550.00
Crèche / Studio 2	12.50	11.82	1.18	13.00
Youth Room Day	16.50	15.45	1.55	17.00
Youth Room Evening(after 5pm)	20.00	19.09	1.91	21.00
Equipment Hire per item (Tables, chairs(10), sporting equipment)	3.00	2.73	0.27	3.00

### Swimming Lessons

	Current fee	Proposed Fee	Plus GST	Total Fee
Adult Swimming Lesson (up front payment)	100.00	90.91	9.09	100.00
Preschool Swimming Lesson (up front)	90.00	84.55	8.45	93.00
School age GST free (up front)	90.00	84.55	8.45	93.00
Parent – Child Lessons	90.00	84.55	8.45	93.00
Individual Lesson – 15 minute (up front)	N/A	109.09	10.91	120.00
Casual Lesson	N/A	13.64	1.36	15.00

### Aquatics

	Current fee	Proposed Fee	Plus GST	Total Fee
Adult entry	3.60	3.36	0.34	3.70
Adult combined	6.00	5.64	0.56	6.20
Student Entry	2.60	2.45	0.25	2.70
Student combined	4.30	4.09	0.41	4.50
Pensioner entry	2.40	2.27	0.23	2.50
Spectator	1.40	1.36	0.14	1.50
School entry	1.50	1.45	0.15	1.60
Vacation 1 child	34.00	32.45	3.25	35.70
Vacation 2 children	55.50	53.00	5.30	58.30
Vac 3 children	77.00	73.45	7.35	80.80
Vac 4 children	98.60	94.09	9.41	103.50
Vac 5 children	117.80	112.45	11.25	123.70
Vac 6 children	135.90	129.73	12.97	142.70



**Aquatics**

	<b>Current fee</b>	<b>Proposed Fee</b>	<b>Plus GST</b>	<b>Total Fee</b>
Adult 10	34.20	30.27	3.03	33.30
Adult 20	64.80	60.55	6.05	66.60
Adult 50	153.00	143.00	14.30	157.30
Student 10	23.40	22.09	2.21	24.30
Student 20	46.80	44.18	4.42	48.60
Student 50	110.50	104.36	10.44	114.80
Pensioner 10	22.80	21.55	2.15	23.70
Pensioner 20	43.20	40.91	4.09	45.00
Pensioner 50	102.00	96.64	9.66	106.30
Spa/Sauna/Steam	6.70	6.27	0.63	6.90
Pensioner Spa/Sauna/Steam	5.70	5.27	0.53	5.80
Lane Hire	15.00	13.64	1.36	15.00
Dolphin 100	204.00	192.73	19.27	212.00
Dolphin 200	357.00	336.36	33.64	370.00
Family Swim(2 adults and 2 children)	10.50	10.00	1.00	11.00

**Programs**

	<b>Current fee</b>	<b>Proposed Fee</b>	<b>Plus GST</b>	<b>Total Fee</b>
Senior Team Registration (AM)	74.00	67.27	6.73	74.00
Senior Team Registration (PM)	94.00	85.45	8.55	94.00
Weekly Team Fees(AM )	29.00	26.36	2.64	29.00
Weekly Team Fees(PM)	36.00	32.73	3.27	36.00
Weekly Team Fees(Soccer)	28.00	26.36	2.64	29.00
Weekly Team Fees (Hockey)	29.00	27.27	2.73	30.00
Junior Team Registration(per player)	8.50	8.18	0.82	9.00
Junior Team Competition	25.00	23.64	2.36	26.00
Adult Courses/term (excluding Yoga, Pilates and Craft Classes)	70.00	67.27	6.73	74.00
Junior Courses/term (excluding art & ballet)	54.00	50.91	5.09	56.00

**Crèche**

	<b>Current fee</b>	<b>Proposed Fee</b>	<b>Plus GST</b>	<b>Total Fee</b>
Crèche (1 <sup>st</sup> child) 1.5 hours	2.30	2.18	0.22	2.40
Crèche (additional child) 1.5 hours	1.20	1.18	0.12	1.30
Crèche (1 <sup>st</sup> child) 2 hours	2.80	2.64	0.26	2.90
Crèche (additional child) 2 hours	1.50	1.45	0.15	1.60
Crèche 10 Voucher(1 <sup>st</sup> child) 1.5 hours	20.70	19.64	1.96	21.60
Crèche 10 Voucher(1 <sup>st</sup> child) 2 hours	25.20	23.73	2.37	26.10
Childcare facilities are for South Lake Leisure Centre patrons only.				
Crèche Opening Hours: Monday to Friday – 8.45am –1.00pm				

**Fitness**

	Current fee	Proposed Fee	Plus GST	Total Fee
Casual Gymnasium and Swim	9.00	9.09	0.91	10.00
Casual Aerobic/Aquarobic	6.50	6.09	0.61	6.70
Over 50	5.20	4.73	0.47	5.20
Club 50 Voucher x 10	47.00	42.73	4.27	47.00
Aerobic / Aquarobic voucher x 10	58.50	54.82	5.48	60.30
Aerobic / Aquarobic voucher x 20	110.50	103.64	10.36	114.00
1 option 1 month	63.00	59.09	5.91	65.00
1 option 3 month	152.00	142.73	14.27	157.00
1 option 6 month	268.00	250.00	25.00	275.00
1 option 12 month	399.00	373.64	37.36	411.00
1 option Direct Debit	37.00	34.55	3.45	38.00
2 option 1 month	74.00	70.00	7.00	77.00
2 option 3 month	168.00	158.18	15.82	174.00
2 option 6 month	305.00	284.55	28.45	313.00
2 option 12 month	462.00	430.91	43.09	474.00
2 option Direct Debit	41.00	38.18	3.82	42.00
3 option 1 month	84.00	79.09	7.91	87.00
3 option 3 month	184.00	171.82	17.18	189.00
3 option 6 month	326.00	304.55	30.45	335.00
3 option 12 month	515.00	479.09	47.91	527.00
3 option Direct Debit	45.00	41.82	4.18	46.00
4 option 1 month	95.00	89.09	8.91	98.00
4 option 3 month	215.00	201.82	20.18	222.00
4 option 6 month	347.00	324.55	32.45	357.00
4 option 12 month	562.00	521.82	52.18	574.00
4 option Direct Debit	48.00	44.55	4.45	49.00
Off peak 1 month (Gym & Aquatics Only)	53.00	50.00	5.00	55.00
Off peak 3 month (Gym & Aquatics Only)	126.00	118.18	11.82	130.00
Off peak 6 month (Gym & Aquatics Only)	210.00	197.27	19.73	217.00
Off peak 12 month (Gym & Aquatics Only)	336.00	316.36	31.64	348.00
Off peak Direct Debit (Gym & Aquatics Only)	32.00	30.00	3.00	33.00
Joining Fee (Varies per m/ship options)	1 month DD m/ship	-	-	1 month DD m/ship
Direct Debit Cancellation Fee	100.00	100.00	10.00	110.00
Membership Suspension Fee	10.00	9.09	0.91	10.00

### Strategic Plan/Policy Implications

N/A

### Budget/Financial Implications



Any reduction in the proposed fees will result in a decrease in the projected income budget. The estimated operating loss for 2004/05 is \$225,000, which is expected to equate to the 2003/04 financial year loss.

### **Legal Implications**

N/A

### **Community Consultation**

N/A

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

Nil.

THE PRESIDING MEMBER PRESENTED THE MINUTES OF THE DISABILITY ADVISORY COMMITTEE MEETING

## **17.5 (MINUTE NO 2397) (OCM 20/04/2004) - MINUTES OF DISABILITY ADVISORY COMMITTEE 3 FEBRUARY, 2004 (8413) (GMB) (ATTACH)**

### **RECOMMENDATION**

That Council:-

- (1) receive the Minutes of the Disability Advisory Committee dated 3 February, 2004; and
- (2) place in its 2004/05 Municipal Budget for consideration the sum of \$10,000 for the employment of a disability works crew in accordance with the recommendation of the Disability Advisory Committee.

### **COUNCIL DECISION**

MOVED Cllr V Oliver SECONDED Cllr S Limbert that Council:

- (1) receive the Minutes of the Disability Advisory Committee dated 3 February, 2004; and
- (2) include \$20,000 for consideration in its 2004/05 Municipal Budget for the employment of a Disability Works Crew, consistent with the conditions and terms outlined by the South

Metropolitan Personnel proposal tabled at the February meeting of the Disability Advisory Committee.

**CARRIED 8/0**

### **Explanation**

It is Council's opinion that it should provide greater resources to this project in view of the potential benefits to both Council and disabled members of the community.

### **Background**

The Disability Advisory Committee Terms of Reference as adopted by Council states the need to improve universal access and inclusion for people with special needs and specifically to "utilise the skills of people with a disability within the Council in paid and unpaid capacities".

### **Submission**

N/A

### **Report**

Refer to Committee Minutes and attached Committee Request for Project funding form. In summary, the Committee has requested that the Council allocate funds for the ongoing employment of a Work Crew made up of 3 people with disabilities who would work for two days per week for 4 hours per day. The type of the work would include general cleaning, weeding, tree planting, garden maintenance etc.

As part of the ongoing project South Metro Personnel employment agency have stated that they will provide at no cost to the City full supervision for the work crew in the form of a coordinator. They have also stated that they will be providing transport to various work sites through out the City.

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

Key Result Area "Facilitating the Needs of Your Community"

### **Budget/Financial Implications**

Should the proposal be supported \$10,000 per annum would need to be allocated for an ongoing period.





**Legal Implications**

Nil.

**Community Consultation**

The Disability Advisory Committee provides an ongoing consultation process, where community members can express their views about issues for people with disabilities living in the district.

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

Nil.

THE PRESIDING MEMBER PRESENTED THE MINUTES OF THE ABORIGINAL ADVISORY COMMITTEE MEETING

**17.6 (MINUTE NO 2398) (OCM 20/04/2004) - MINUTES OF ABORIGINAL ADVISORY COMMITTEE 3 FEBRUARY, 2004 (8978) (GMB) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) receive the Minutes of the Aboriginal Advisory Committee dated 11 February, 2004; and
- (2) advise the Aboriginal Advisory Committee that Council will consider in its Principal Activities Plan, the employment of an Aboriginal Affairs Officer and in the meantime is seeking grants for such a position from State and Commonwealth grant funds

**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Cllr V Oliver that Council:

- (1) receive the Minutes of the Aboriginal Advisory Committee dated 11 February, 2004;
- (2) consider the new budget proposal for a full-time Aboriginal Community Development position, submitted by the Aboriginal Advisory Committee, during its decision making processes for adoption of the municipal budget in 2004/2005 and in the

interim, seek grants for such a position from State and Commonwealth grant funds; and

- (3) advise the Aboriginal Advisory Committee to invite the next highest polling nominee from its previous annual election to become a member of the committee, and if the nominee accepts the invitation, accordingly appoint the nominee as a committee member, upon Council being advised of the nominees details.

**CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 8/0**

### **Explanation**

Council prefers to consider the detail of new employee positions within the context of its annual budget decision-making process, rather than its Principal Activity Plan process. Council is required to make a decision regarding membership of its committees, as this is a decision that cannot be delegated.

### **Background**

The Aboriginal Advisory Committee Terms of Reference as adopted by Council states the need to “support and generate awareness of Nyungar culture “

### **Submission**

N/A

### **Report**

Refer to Committee Minutes and attached Committee Request for Project funding form. In summary, the committee is requesting that Council allocate ongoing funds for an Aboriginal Community Development officer with projects activity funds.

The committee has stated that they believe the position is essential for the continued support and development of the newly established Aboriginal Advisory Committee. This position is also needed to create a vital link and partnership between the City and the Aboriginal Community and enable the development of culturally appropriate projects that have been identified as a community need.

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

Key Result Area “ Facilitating the Needs of Your Community”



### Budget/Financial Implications

Should the proposal be supported the following ongoing annual budget allocations would be required:

- 1) \$49,700.00, per annum for salaries and on costs;
- 2) \$5,000 for communication and administrative costs; and
- 3) \$5000 for community development projects and training.

### Legal Implications

Nil

### Community Consultation

The Aboriginal Advisory Committee provides an ongoing consultation process, where community members can express their views about issues for Aboriginal people living in the district.

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

Nil

## 17.7 **(MINUTE NO 2399) (OCM 20/04/2004) - COOGEE BEACH CAR PARK ANTI-SOCIAL BEHAVIOUR (3300004) (RA)**

### RECOMMENDATION

That Council receive the information provided in the report.

### COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr L Goncalves that Council:

- (1) immediately initiate the actions outlined as Items 1, 2 and 3 of the Report, utilising funds allocated in the Budget Review; and
- (2) request a future report be prepared concerning the overall plan for Coogee Beach outlined as Step 4 in the Report.

**CARRIED 8/0**

### Explanation

There is currently a real problem, involving anti-social behaviour occurring at this car park and the few small actions contained in the



report could make a substantial and immediate difference to the problem of anti-social behaviour in this vicinity. Therefore, for a reasonably small outlay, Council could see an immediate positive social outcome for local residents and visitors alike.

### **Background**

Council at its meeting of the 18 November 2003, listed the following item under "Matters to Note for Investigation Without Debate".

"Methods of preventing hooligan behaviour in the northern Coogee Beach car park. The report is to address issues such as the installation of in road lift out bollards to prevent access to the car park after hours and the removal of the vegetation that obscures vision between Cockburn Road and the northern end of the car park, plus any other solutions that may be applicable."

### **Submission**

N/A

### **Report**

Following an inspection of the site and enquiries with stakeholders it is proposed that the following actions be considered and if progressed this be done in stages so as to minimise Council's expenditure until the offensive behaviour subsides.

1. In the first instance the trees and shrubs at the north-eastern end of the car park should be under-pruned to conform to normal Crime Prevention Through Environmental Design (CPTED) principals.

This, whilst removing part of the aesthetic screen of the car park from Cockburn Road would go a long way to providing a safer environment for users of the coastal cycle/pathway. These users have suffered intimidation and harassment from youths hidden in the shrubbery over a long period. At the same time it would ensure the undesirable activities currently engaged in by the youth under the cloak of the screen become clearly visible and therefore less attractive to them.

The estimated cost to perform this work is \$3,500.00 + GST. The current maintenance program of the area by Parks & Gardens staff would ensure that the area is kept clear and safer for users over time.



2. A request to the Police Department for more patrols of the area to dissuade the youths from congregating in the area has been made.
3. Should the problem persist the next option is to close off the northern end of the car park with the installation of "In road" bollards. The cost of this is estimated to be \$17,200.00. This is made up of the "in road" fittings at the main entrance and the bollards required to ensure the eastern side is protected from access by bollards (160m), there is also the issue of locking and unlocking the "in road" bollards every day, an annual recurrent cost including maintenance of \$3,000.00 and will require an allocation of funds.
4. The ultimate solution would be to place regular islands/curbing planted with native trees to provide shade but not hiding places. This would stop a number of the anti-social motor vehicle activities, help improve the aesthetic appeal and from a long-term basis will provide shade to the bona fide users. Consideration should also be given to constructing 'speed humps', improved lighting, locking off areas of the car park at certain times/days and the possible installation of surveillance cameras. It is proposed that this option be investigated at the stage of the overall plan for the Coogee Beach redevelopment associated with the realignment of Cockburn Road and the general upgrade of the reserve area.

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

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

### **Budget/Financial Implications**

Should Council wish to proceed with any issues identified above additional funds will be required either through the budget review process or alternatively included in 2004/05 budget process.

### **Legal Implications**

Nil.

### **Community Consultation**

Nil.

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

Nil



**18. EXECUTIVE DIVISION ISSUES**

Nil

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

**19.1 (MINUTE NO 2400) (OCM 20/04/2004) - CORPORATE GOVERNANCE CHARTER (1707) (RWB)**

**RECOMMENDATION**

That a Corporate Governance Charter be distributed for future Council consideration.

**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Cllr S Limbert that Council:

- (1) authorise the CEO to prepare a draft Corporate Governance Charter for the Council; and
- (2) refer the draft Corporate Governance Charter to the Internal Audit Committee for consideration and recommendation to the Council.

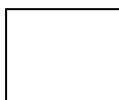
**CARRIED 8/0**

**Explanation**

A Corporate Governance Charter is a written policy document that defines the respective roles, responsibilities and authorities of the governing body and management in setting the direction, management and control of the organisation. The Internal Audit Committee's brief includes reviewing and/or initiating any act necessary to ensure compliance with the policies, plans, procedures, laws and regulations. The adoption of a Corporate Governance Charter is an act considered desirable to ensure compliance. Accordingly, the Internal Audit Committee has a role in the preparation of the Corporate Governance Charter.

**Background**

Deputy Mayor Graham has provided a Notice of Motion for consideration at the April 2004, Council Meeting to the effect that a Corporate Government Charter be prepared for Council's consideration.



**Submission**

N/A

**Report**

In support of the Motion, the Deputy Mayor has provided the following information:-

“Corporate governance is playing an increasingly influential role in Australia’s public life. A corporate governance charter provides clear practical guidelines on how to implement best practice corporate governance in all types of organisations, including local governments.

There are four main elements to a corporate governance charter. These are:

- Defining governance roles
- Improving board processes
- Outlining key board functions
- Providing ways for continuing improvement.

Council is committed to continually improving its governance systems and processes. The adoption of a Corporate Governance Charter is consistent with best practice management, and provides a range of benefits.”

The WA Local Government Association (WALGA) has produced such a Charter for its own purposes. An option for Council is to request WALGA to produce a Draft Model Charter, which can be considered by local governments for adoption, in a similar manner to Draft Codes of Conduct.

**Strategic Plan/Policy Implications**

Key Result Area “Managing Your City” refers.

**Budget/Financial Implications**

Preparation of document can be achieved using internal staff resources.

**Legal Implications**

Nil.

**Community Consultation**

Nil.



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

Nil.

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

Nil

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

Nil

**22 (OCM 20/04/2004) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

- (1) Clr Allen requested that a report be prepared on the duplication of Farrington Road.
- (2) Deputy Mayor Graham requested that a report be prepared and presented to a future Council meeting outlining the issues involved into the Provision of Library Services at the Spearwood Library on Wednesdays. The report should:
  1. Outline the reasons why a service is not currently provided.
  2. indicate whether there is a reduced library staff workforce on Wednesdays.
  3. provide a comparison of opening hours between the Cockburn Library Service, and library services at bordering local authorities.
- (3) Clr Reeve-Fowkes requested a report into the Camera Security System in Council's car park. The report to establish why the current system is failing to identify vandals and car thieves in the car park. The report to provide detailed options to either upgrade the current system or introduce a new and more effective alternative.

**23. CONFIDENTIAL BUSINESS**

Nil





**24. (MINUTE NO 2401) (OCM 20/04/2004) - 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:-

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

**COUNCIL DECISION**

MOVED Clr M Reeve-Fowkes SECONDED Clr L Goncalves that the recommendation be adopted.

**CARRIED 8/0**

**25 (OCM 20/04/2004) - CLOSURE OF MEETING**

MEETING CLOSED 8.30 PM

**CONFIRMATION OF MINUTES**

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

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

