

CITY OF COCKBURN

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 OCTOBER 2001 AT 7:30 P.M.

PRESENT:

ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Ms A Tilbury	-	Councillor
Mr I Whitfield	-	Councillor
Mr A Edwards	-	Councillor
Mr K Allen	-	Councillor
Mr L Humphreys	-	Councillor
Mrs N Waters	-	Councillor
Mrs V Oliver	-	Councillor

IN ATTENDANCE

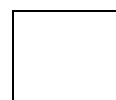
Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr A. Blood	-	Acting Director, Planning & Development
Mr B. Greay	-	Director, Engineering & Works
Mr R. Avard	-	Manager, Community Services
Mrs B. Pinto	-	Secretary,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

1318. (AG Item 1) DECLARATION OF MEETING

The Presiding Member opened the meeting at 7.30 pm.

1319. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (If required)

Nil



1320. (AG Item 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.

1321. (AG Item 5.1) (Ocm1_10_2001) - APOLOGIES & LEAVE OF ABSENCE

Clr M Reeve-Fowkes

Apology

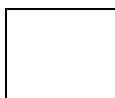
1322. (AG Item) (Ocm1_10_2001) - PUBLIC QUESTION TIME

Mr Ian Charge, a resident of Hamilton Hill spoke in relation to the Lakeside Cinemas at Manning Park. He asked if a copy of the estimated cashflow project from the Lakeside Cinemas be made available, and what percentage will Council be taking of this? He also asked what is the justification of percentage and will this money be used for the maintenance of Manning Park?

Mayor Lee responded that Council's percentage will be 10% of the licence agreement and all monies will go straight back into Manning Park. The other two questions will be taken on notice and a response provided in writing.

Mr Paul Fletcher, a resident and ratepayer of the district also spoke regarding Lakeside Cinemas. He asked who was the person who invited Lakeside Cinemas to set up in Manning Park, and with what purpose in mind and what gain will this be to the community?

Mayor Lee replied that the officer in question who initiated the project was Manager, Community Services. The officer upon reading an article in the newspaper saw it as an opportunity for Council to have an enhancement to the quality of lifestyle within the City and the Council supported it and progressed with it from thereon. He added that Mr Bill Thomas, former Member for Cockburn, was a strong supporter of an open air cinema in Manning Park. This is where the concept originated, supported by the Commissioners of the day.



Mr Fletcher asked a question on behalf of Mrs Elliott of 17 Davilak Avenue, which stated, whether any member of Council had any monetary interest or stands to gain in any way, either directly or indirectly from the operations of the Lakeside Cinemas?

Mayor Lee replied that no Councillor stands to make any individual gain apart from a better quality lifestyle as a result of the open air cinemas.

Ms Vera Gurr, resident of Hamilton Hill spoke in relation to Lakeside Cinemas at Manning Park. She asked what public consultation process was undertaken prior to the June Meeting of Council, where the decision and approval was made, and if so, in what form?

Mayor Lee replied that he does recall that letters were sent out seeking input from the community, but was unsure as to when this had occurred.

Ms Gurr said that she did receive a letter in August sent to residents in Davilak Avenue and Azelia Road. As a result of this Council received 23 replies, of which 12 supported it and 11 opposed the project.

Mayor Lee said that Council did not take any specific public consultation prior to this decision in June, as Council felt it was very important that this matter proceed for this season. The project needed to commence as soon as possible to ensure that it was in time for this season, whilst addressing any problems Council felt may arise and also seeking consultation to make Council aware of any other problems that it may not have been aware of. It was Council's belief that it was entirely a manageable project.

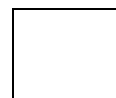
Ms Gurr stated that she was not against the project going ahead, but considering the fact that with the number of people in the community, it was her belief that due process was not given in consulting the community appropriately, prior to a decision being made.

Mayor Lee thanked her for comments.

1323. (AG Item 8.1) (Ocm1_10_2001) - ORDINARY COUNCIL MEETING - 18/9/2001

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 18 September 2001 be confirmed as a true and accurate record.



COUNCIL DECISION

MOVED Clr Humphreys SECONDED Clr Whitfield that the recommendation be adopted.

CARRIED 9/0

1324. (AG Item 13.1) (Ocm1_10_2001) - CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 2000 - AMENDMENTS (1116) (LJCD) (ATTACH)

RECOMMENDATION

That Council formally adopts the City of Cockburn (Local Government Act) Local Laws 2000 Amendments as reported in the attachment to this report and adheres to all associated statutory administration.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr Oliver SECONDED Clr Humphreys that the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

Council at its meeting held on the 17 July 2001 resolved to proceed with the making of the Amendments to the City of Cockburn (Local Government Act) Local Laws 2000 and to adhere to the required Statutory procedures.

Submission

N/A

Report

In accordance with the provisions of the Local Government Act 1995 an advertisement was published in The West Australian on the 18 August 2001 informing the public of Council's intention to amend its local laws. The notice also advised the public that they could lodge a submission

regarding the proposed amendments if they so wished. The submission period for the receipt of representations closed on the 2 October 2001.

No submissions were received and therefore the amendments are recommended to Council for adoption.

Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.

Budget/Financial Implications

Funding is available within Council’s operating budget for associated administrative processes

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

Nil

1325. (AG Item 14.1) (Ocm1_10_2001) - UPDATE OF POLICY AES2 - COMMON SEAL OF THE CITY OF COCKBURN (1054) (AJB) (ATTACH)

RECOMMENDATION

That Council adopt the updated Policy AES2 and Delegated Authority to Officers, as contained in the attachments to the Agenda.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr Waters SECONDED Clr Edwards that the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

At the Ordinary Meeting of Council on 19 June 2001, the Register of Policies and Delegated Authority to Officers was adopted.

Submission

N/A



Report

Policy AES2 authorises the Mayor and Chief Executive Officer to execute documents requiring the affixation of Council's Common Seal. This includes functions carried out by the City Surveyor/Land Officer including caveats, memorials, leases and transfers, resulting in the need for documents to be sealed. For example, lots within Beeliar Heights Estate have caveats regarding planting to minimise the impact of midge and lots within the Resource Zone have caveats regarding potable water requirements. Each time one of these lots is sold, Council is required to withdraw the caveat to allow the transfer to be registered. The withdrawal document has to be sealed by Council.

There have been occasions where a settlement has been delayed due to the unavailability of the Mayor or Chief Executive Officer to seal the documents.

In recent discussions, Council's solicitors advised that of their local government clients, the Shire of Swan which delegates the sealing of documents to other officers as well as the Mayor and Chief Executive Officer, achieves the quickest turnaround and is best able to respond to urgent requests.

In light of the advice provided by Council's solicitors and comments from officers of the Local Government Department supporting the process adopted by the Shire of Swan, it is proposed to amend Policy AES2 to enable documents relating to land matters such as caveats, withdrawal of caveats, memorials, leases and transfers to be signed by 2 (two) of the following persons; The Mayor, Deputy Mayor, Chief Executive Officer, Directors, Manager Planning Services and the City Surveyor/Land Officer.

The benefit to the ratepayers is that a quicker turnaround of documents will reduce the potential for delays at settlement and the possibility of costly penalties being incurred.

A modified Policy AES2 and Delegated Authority AES2 are included in the Agenda attachments.

Strategic Plan/Policy Implications

Key Result Area "Managing your City" refers.

Budget/Financial Implications

N/A

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



Nil.

**1326. (AG Item 14.2) (Ocm1_10_2001) - LOCAL GOVERNMENT ACT 1995
- FEES AND CHARGES (3108) (VG)**

RECOMMENDATION

That Council:

- (1) impose a charge for the service of assessing building work for compliance when such work has not had previous approval of the City of Cockburn;
- (2) set a fee for such assessment at \$100 per assessment pursuant to Section 6.16 of the Local Government Act 1995.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr Waters SECONDED Clr Edwards that the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 9/0

Background

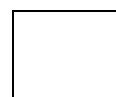
Due to recent Legislation, Real Estate Agencies have a responsibility to ensure that buildings they sell are in compliance with Building and Planning Codes. Consequently, when it is found that a building for sale has not had approval of the Local Government, there is generally an urgent request for the Local Government to assess the building for compliance before it is sold.

Submission

At present there is no existing fee to cover this assessment which requires a search of the City's records, at least one site visit and report to the applicant.

Report

A building licence cannot be issued in retrospect and there is no scheduled fee for the City to provide a statement of compliance.



Section 6.16 of the Local Government Act 1995 allows a Local Government to impose and recover a fee or charge for any service it provides or proposes to provide, other than a service for which a service charge **is** imposed.

A fee may be charged under Section 6.16(d) for receiving an application for approval and granting an approval. In these instances a written approval of compliance or non compliance would be issued.

It is estimated that the time for a Building Surveyor to assess the situation on site, make a report - written approval plus vehicle costs would average \$100. This compares favourably with the minimum building licence fee of \$70.00 (\$40.00 plus \$30.00 Builder's Registration Levy).

Strategic Plan/Policy Implications

1. Managing Your City

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

Budget/Financial Implications

Cost recovery of service provided.

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

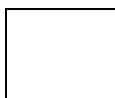
Nil.

1327. (AG Item 14.3) (Ocm1_10_2001) - AUTHORITY TO APPROVE OR REFUSE TO APPROVE PLANS AND SPECIFICATIONS PURSUANT TO SECTION 374(1b) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 (3108) (VG)

RECOMMENDATION

That Council:

- (1) delegate the authority to approve or refuse to approve plans and specifications submitted to the City of Cockburn pursuant to the Local Government (Miscellaneous Provisions) Act 1960, to Mr Desmond John Worthington;
- (2) issue to Desmond John Worthington, a Certificate of Authorisation relating to recommendation (1) above as required by Section 9.10(2) of the Local Government Act 1995.



COUNCIL DECISION

MOVED Clr Humphreys SECONDED Clr Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

Mr Worthington has recently been employed by the City as a Building Surveyor and part of his duties are to approve or not to approve building licence applications and this function requires Council to delegate its authority.

Submission

N/A

Report

Mr Worthington has the qualifications necessary to receive Council's delegated authority.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

1328. (AG Item 14.4) (Ocm1_10_2001) - CLOSURE OF PORTION OF COCKBURN ROAD JERVOISE BAY PURSUANT TO SECTION 58 OF THE LAND ADMINISTRATION ACT 1997 (450002) (KJS)

RECOMMENDATION

That Council request the Department of Land Administration to:-

- (1) close portion of Cockburn Road, Henderson from a point approximately 500 metres north of the intersection with Stuart

Drive to a point approximately 200 metres south of Stuart Drive subject to there being no objection received as a result of the proposal being advertised in the local newspaper;

(2) include the closed road land into the adjoining land holdings.

COUNCIL DECISION

MOVED Clr Humphreys SECONDED Clr Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

The State Government's Jervoise Bay Development required that the north-south Regional Road link be re-routed to a location inland from the current position. The new road has now been constructed paving the way for the removal of the existing Cockburn Road. The land being the former road reserve will be amalgamated with the adjoining land and become the subject of an overall industrial lot subdivision in accordance with the overall adopted Structure Plan for the development.

Submission

A letter requesting the road closure has been received from Landcorp.

Report

The statutory requirement to advertise the proposal in a local paper and then allow at least 35 days to receive objections has been instituted. Landcorp's consultant engineers have agreement with all the service authorities in relation to the relocation of services in the road reserve. Main Roads WA have taken steps to de-proclaim current coastal Cockburn Road in favour of the new inland link. Costs associated with this matter will be borne by Landcorp.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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



Nil.

1329. (AG Item 14.5) (Ocm1_10_2001) - TRANSPORTATION OF SOLID SODIUM CYANIDE - ATA ENVIRONMENTAL (9510) (MR) (ATTACH)

RECOMMENDATION

That Council advise ATA Environmental that in view of the additional information provided by Australian Gold Reagents Pty Ltd ("AGR") received on 17 September 2001 no, no objections raised in respect to the proposal to transport solid sodium cyanide by road using Rockingham Road and Stock Road subject to:-

- (1) an emergency management plan being prepared for and approved by the Environmental Protection Authority in conjunction with other authorities (FESA, DOME etc); and
- (2) the City being consulted on any proposed change to the transportation route within the district;

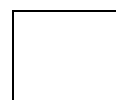
COUNCIL DECISION

MOVED Cllr Tilbury SECONDED Cllr Oliver that Council advise ATA Environmental that in view of the additional information provided by Australian Gold Reagents Pty Ltd ("AGR") received on 17 September 2001, no objections raised in respect to the proposal to transport solid sodium cyanide by road using Rockingham Road and Stock Road, subject to:

- (1) an Emergency Management Plan being prepared for and approved by the Environmental Protection Authority in conjunction with other authorities (FESA, DOME etc.), with a copy of the plan being distributed to Elected Members;
- (2) the City being consulted on any proposed change to quantities to be transported and/or the transportation route within the district; and
- (3) Council being notified of any spillage or accident involving sodium cyanide whilst being transported through Cockburn.

CARRIED 9/0

Explanation



It is understood that this is a Main Roads issue and thus cannot be prevented from going ahead. However, Council is satisfied that the above points will improve the current situation.

Notification of any increase in quantities to be transported through the district and/or of any spillage would enable Council to consider what action may be necessary to minimise potential environmental impacts.

Background

A Sodium Cyanide Plant is proposed to be built in the Town of Kwinana.

The product from the plant is proposed to be exported through the Port of Fremantle. This means the transportation of the material will be through the City of Cockburn.

Should the proposed Sodium Cyanide Plant be built in the Town of Kwinana, then access to and from the plant will need to be provided.

It is proposed that vehicles transporting solid sodium cyanide use Rockingham Road and Stock Road through the district, which are Primary Distributor Roads which are designated freight routes.

It should be acceptable to use these roads to access the Port of Fremantle, subject to an emergency plan being prepared in the case of an accident. The emergency management plan should be prepared and approved by the Environmental Protection Authority.

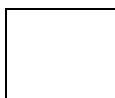
While the use of Rockingham Road and Stock Road is an acceptable route for the transportation of solid sodium cyanide, the Council should be informed of any proposed change to the route so that it has the opportunity to comment prior to implementation.

It is pointed out that the proposed route follows roads controlled by Main Roads WA, and therefore the Council has no ability to prohibit their use for the transportation of hazardous materials.

According to the applicant solid sodium cyanide is already routinely transported throughout Western Australia in both a solid and liquid form. The transport and packaging requirements are therefore well established.

Council at its ordinary meeting on 21 August 2001 resolved to: -

- (1) *Advise ATA Environmental, that it objects to the proposal to transport solid sodium cyanide by road using Rockingham Road and Stock Road within the City of Cockburn;*



- (2) *requires further information regarding alternative routes including the shipping of such cargo directly from Kwinana; and*
- (3) *in the event that Council is unable to prohibit the transportation of solid sodium cyanide through the City of Cockburn, the Council requests:*
 - a. *an emergency management plan being prepared for and approved by the Department of Environmental Protection in conjunction with other authorities (FESA DOME etc) and conformation that adequate resources are available within a reasonable timeframe to deal with any incident.*
 - b. *the proponents provide information on anticipated frequency and time of transportation, quantities per vehicle, packaging, nature of vehicle, resources available locally and on plant site - chemical response equipment and HP76 or emergency procedure guide details.*

Submission

In a facsimile from ATA Environmental dated 26 July 2001 they advised:-

"Further to your discussions with Noel Davies, the proposed transportation for export of the solid NaCN via the Port of Fremantle will follow main roads from the Kwinana site to the North Fremantle container terminal, ie Kwinana Beach Road, Patterson Road, Rockingham Road, Stock Road, Leach Highway, Stirling Highway, Tydeman Road, Napier Road, Port of Fremantle.

Could you please confirm that the City of Cockburn does not have any comments regarding this proposal."

The applicant has provided a detailed response to the concerns identified by the Council, which are attached to this report.

Report

Australian Gold Reagents Pty Ltd have considered the feedback from the Council and provided a detailed response so that the Council may reconsider its position. AGR have also requested that the Council formally minute the attendance of His Worship Mayor Lee and Councillor Tilbury at a community meeting on 27 August 2001 as a matter of public record. It should also be noted that Clr Reeve-Fowkes was also in attendance.

AGR's response is detailed in the attachments, which is self-explanatory.



In view of the additional information provided by AGR there are no objections to the proposal to use Rockingham Road and Stock Road within the district.

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

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

Nil

1330. (AG Item 14.6) (Ocm1_10_2001) - PROPOSED HOME OCCUPATION (CLEANING SERVICE) - LOT 46; 50 WINDMILL DRIVE, BIBRA LAKE - OWNER: Y A MCROBB & K D MCCAUL - APPLICANT: Y MCROBB (1101972) (SC) (MAP 23.16) (ATTACH)

RECOMMENDATION

That Council:

- (1) refuse the proposed home occupation - cleaning services on Lot 46; 50 Windmill Drive, Bibra Lake for the following reason:-
 1. The proposal fails to comply with the definition of a Home Occupation under District Zoning Scheme No. 2.
- (2) issue a MRS Form 2 Notice of Refusal;
- (3) advise the submissioners of Council's decision accordingly.

COUNCIL DECISION

MOVED Clr Waters SECONDED Clr Tilbury that the recommendation be adopted.

CARRIED 9/0



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Background

ZONING:	MRS:	Urban
	DZS:	R15
LAND USE:	House	
LOT SIZE:	742m ²	
AREA OF PROPOSAL	20m ²	
USE CLASS:	'AA' Home Occupation	

A complaint was received by the City regarding a cleaning business on the subject lot. A site inspection confirmed that the owner was operating a home occupation without prior planning approval.

The applicant is also employing people that are not members of the occupier's family.

The Scheme states that the business must "... not entail employment of any person not a member of the occupier's family.

Submission

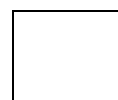
The applicant seeks approval for a home occupation. The property is currently being used as an office and storage (cleaning detergents and equipment) for a cleaning business. The applicant has indicated that customers will not be visiting the above property, however, once a month a deliveryman will be delivering rags, bags and cleaning detergents for the business to the subject site.

Report

The Council has the discretion to either approve the proposal (with or without conditions) or refuse the proposal. The surrounding landowners were notified of the application and given the opportunity to comment within a period of 21 days. At the close of the advertising period, 2 submissions were received. One submission of objection was received.

The major concerns expressed in the submission were that:

- "1. *Windmill Drive is a residential area that is not suitable to store large quantity of chemicals used for stripping floors and sealants.*
2. *Employees park their cars on the property and create loud noises between 5 – 6 am on most mornings.*



3. *The deliveryman delivers two to three times per week, at times very early in the morning. Van noises disrupting surrounding neighbours.*
4. *The business is not small scale, as it employs a number of staff, it should be relocated to an industrial site."*

The concerns received seemed to be substantial.

The proposal is not supported as it fails to comply with the Scheme requirements relating to home occupation. The use is of a scale and type that is probably more suitable within a commercial area where there is less potential impact on the residential area.

The City has discussed the application with applicant who is prepared to find alternative location.

Strategic Plan/Policy Implications

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

1. *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

The Planning Policies which apply to this item are:-

APD17* Standard Development Conditions and Footnotes

Budget/Financial Implications

N/A

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

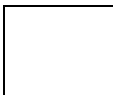
Nil

1331. (AG Item 14.7) (Ocm1_10_2001) - PROPOSED STRUCTURE PLAN - SUCCESS LAKES ESTATE - JAA PT LOTS 212, 214 & CSL PT LOT 458 RUSSELL ROAD, SUCCESS - GOLD ESTATES & CHS LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (9638) (SOS) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the proposed Success Lakes Structure Plan dated August



2001 subject to the following:

1. Modification of the plan to indicate 10% of the net subdividable area for public open space;
2. Revision of the public open space schedule within the report to either totally exclude drainage areas from the net subdividable area with no credit for such areas, or totally include drainage areas within the net subdividable area and allow for up to 50% credit for such areas;
3. Modification of the plan where residential lots are to abut public open space areas by indicating road reserves between the lots and public open space, unless appropriate alternative design solutions can be demonstrated;
4. Modification of the plan to accord with the suggested redesign of the Water Corporation in its letter of 26 September 2001 for the land affected by the 340 groundwater treatment plan buffer;
5. Modification of the plan to indicate the proposed primary school in the location established by the Southern Suburbs District Structure Plan;
6. Modification of the plan to indicate the 500 metre poultry buffer in addition to a notation that no residential development is permitted within the buffer until such time as the operation of the poultry farm on Lot 19 Hammond Road ceases or the Department of Environmental Protection approve a reduced buffer;
7. Modification of the plan to provide for more efficient and convenient pedestrian and cyclist access in the locations indicated on the attached plan;

(2) advise the applicant of the following:

1. Council requires road reserves and pavements widths to be designed in accordance with relevant Council policy;
2. Groundwater availability in this region may be limited and it is suggested that they liaise with the Water and Rivers Commission in this regard. IN the event that a groundwater allocation cannot be obtained for the irrigation of the public open space areas to be provided as part of the development, the configuration and function of such areas may require modification.



3. Public open space credits will not be able to be determined until detailed drainage design has been accepted by the City and any other relevant agency;
 4. Disposal of stormwater must comply with the requirements of the South Jandakot Drainage Management Plan and the Environmental Management Programme for the South Jandakot Drainage Scheme;
 5. Council's Town Planning Scheme limits the size of the local retail centre for the Success Lakes Development Area to 1000m² NLA and 200m² for all other centres;
 6. Proposals for subdivision should address issues relating to noise from the Kwinana Freeway and future Perth to Mandurah railway;
 7. Subdivision proposals for the Success Lakes Developer Contribution Area (DCA 2) will attract conditions requiring contributions towards the construction of Hammond and Russell Roads in accordance with a Development Contribution Plan;
 8. The concepts proposed for the high voltage transmission corridor are considered to have merit, but will ultimately be a matter for Western Power to determine;
- (3) adopt the Schedule of Submissions as contained in the Agenda Attachments; and
- (4) advise the Western Australian Planning Commission and those persons who made a submission of Council's decision

COUNCIL DECISION

MOVED Cllr Humphreys SECONDED Cllr Whitfield that Council adopt the recommendation subject to the deletion of Point (1) 3 and substituting it with the following:

- (1) 3. Appropriate design proposals being submitted for those residential lots that are to directly abut public open space areas by way of a Detailed Area Plan prepared and submitted in accordance with the requirements of Council's Town Planning Scheme. Where the appropriateness of a proposed Detailed Area Plan cannot be demonstrated, public open space areas should be separated from adjacent residential lots by a road of an appropriate width and alignment.

CARRIED 9/0



Explanation

The applicant has discussed the recommendation with the City's Officers, particularly the requirement to modify the structure plan as required by point (1) 3.

The applicant is concerned that this requirement is too open to interpretation and could undermine its intent for a high quality treatment of the interface between residential dwellings and public open space, which it considers to be a critical feature of the development.

The revised Point (1) 3 recommended condition is considered to adequately clarify the intent of the original requirement to address the proposed treatment of the interface between residential lots and adjacent public open space areas. The revised condition requires detailed area plans to demonstrate appropriate interface treatment and where such demonstration is deemed inadequate, the structure plan will need to be modified to indicate a more conventional treatment of a road reserve separating residential lots from the open space areas.

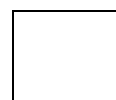
Background

This report concerns a proposed structure plan prepared by Development Planning Strategies on behalf of Gold Estates Australia (1903) Limited and C.H.S. Limited for land located within the Success Lakes Development Area. See Agenda Attachments for proposal location details.

The subject land falls within the Southern Suburbs District Structure Plan (SSDSP) area. The SSDSP was adopted by Council in October 1999 and endorsed by the Western Australian Planning Commission in November 1999. The SSDSP provides the broad framework for the planning of future urban development along the Kwinana Freeway corridor extending southwards from the established communities at Success and Atwell.

The Commission's endorsement of the SSDSP triggered an amendment to the Metropolitan Region Scheme, which now sees the SSDSP area zoned Urban. It also led to progression of amendments to District Zoning Scheme No.2 (Amendments 206, 207 and 211), which have rezoned the three precincts (Development Areas) that make up the SSDSP area to the "Development" zone.

Amendment 206 included the subject land within the Success Lakes Development Area (DA 8) and Developer Contribution Area (DCA 2). It has also defined the particular structure planning requirements



applicable to DA 8 and the obligations of developers in terms of cost contributions towards specified items of development infrastructure, namely construction of Hammond and Russell Roads.

Whilst Council has over the past two years considered several structure plan proposals for other parts of the SSDSP area (Atwell South – Landcorp and Peet & Co and Gaebler Road – Australand), the subject proposal is the first one lodged for Council's consideration for the Success Lakes Development Area.

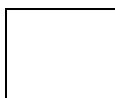
Submission

The City of Cockburn Town Planning Scheme requires that prior to Council support for a proposed subdivision or development application for land in the Success Lakes Development Area, a structure plan is required to be prepared and adopted to guide the determination of such applications. A structure plan, in addition to depicting the proposed development pattern and road layout, can delineate land use classifications and density codes for the Development Area.

The submitted structure plan (see Agenda Attachments) proposes the development of a residential estate on approximately 78 hectares of land located on the western side of Kwinana Freeway between Bartram and Russell Roads, Success. Most of the subject land (75 hectares) is owned by Gold Estates Australia (1903), who was the developer of the Thomsons Lake Estate to the north. The proposed development represents the southerly expansion of the development within the Success area, though the proponent has indicated it is envisaging the creation of a separate identity for the Success Lakes Estate. The proponent envisages staging of the development initially from Bartram Road moving southwards and to occur over a period estimated at between three and five years.

The key components of the structure plan proposal are as follows:

- 619 proposed residential lots ranging in area from 330m² to 2200m², with an average lot size of 550m². Residential density codes range from R10 to R40;
- Transformation of an open drain that traverses the site into an enhanced and revegetated linear parkland spine, leading to a central open space area with lakes and recreational facilities;
- Extension of Wentworth Parade from Bartram Road through the site and intersecting with Hammond Road;
- Retention of remnant vegetation within two separate public open space reserves;



- Development of a local retail centre;
- Use of land within the high-voltage transmission line corridor for a plant nursery;
- Delineation of an area identified for a Government Primary School on the SSDSP as an “area subject to future resolution/negotiation”;
- Delineation of a precinct within close proximity to the future Success Lake rail transit station and park and ride facility as "subject to further detailed planning”

The structure plan proposal was advertised for public comment for a period of 28 days, with the comment period concluding on 28 September 2001. Owners of property near the subject land were provided with a copy of the proposal and invited to comment. The local newspapers circulating in the locality carried advertisements with details of the proposal. Various government agencies and servicing authorities were invited to comment. A total of six submissions have been received. A schedule of submissions containing submission summaries and the recommended responses is included in the Agenda Attachments.

At the time of writing this report, neither the Department of Environmental Protection, the Department for Planning and Infrastructure, the Department of Transport or the Water and Rivers Commission had responded to the referred plan. It is not uncommon for these particular agencies to fail to respond to a structure plan proposal within the statutory time frame required by the Council’s Scheme, however any comments they may subsequently make can be forward to the Western Australian Planning Commission for its consideration of the structure plan proposal.

Report

There is nothing in the submitted Success Lakes Structure Plan or the comments received during the advertising period that warrants rejection of the proposal. There are however several design considerations that require reporting as follows:

Public Open Space (POS) provision

The provision of POS within new development areas is a key factor in the consideration of structure planning and subdivision proposals, particularly in terms of the extent of POS provision and of the dimensions and functions of the POS areas to be provided. There are several Council policies that are relevant to the submitted proposal in terms of assessing the POS provision. Ultimately however it is the Western Australian Planning Commission who have the final



determination of POS provision, having regard for either its Liveable Neighbourhoods Design Code or conventional DC Policy 2.3.

Dealing firstly with the issue of the extent of POS provision, the proposal seeks to provide 6.676 hectares of parkland, of which 5.7 hectares is proposed to be credited as public open space. This includes 50% credit for drainage areas and equates to 8.94% of the nett subdividable area. There are two concerns with these figures. The minor of the two concerns is the deduction of 50% of the drainage areas from the gross subdividable area and then seeking 50% credit for drainage, which is not recommended to be supported. The more significant concern is the reduction of POS below the Council policy and traditional requirement for 10% POS provision.

Liveable Neighbourhoods allows for a minimum of 8% POS where the proponent enhances or develops the POS to an appropriate standard (ie landscaping and/or provision of recreational facilities). Council's policy on this matter is that the proponent must demonstrate compliance with all the elements of Liveable Neighbourhoods to obtain support for 8% as opposed to 10%. The subject proposal is not particularly clear as to whether it is submitted for assessment under Liveable Neighbourhoods, though it does state that it has embraced a number of its objectives. The assessment of the structure plan concludes that whilst some of the elements of Liveable Neighbourhoods have been followed, the proposal has not demonstrated compliance with all elements. This conclusion is similar to the conclusion reached by Council in its consideration of similar recent proposals submitted as "Liveable Neighbourhoods" developments.

It should be noted that the Commission's DC Policy 2.3 allows for a minimum of 8% POS provision, provided the balance 2% is provided through enhancement of the POS areas. Council has traditionally not supported proposals seeking 8% under DC Policy 2.3 and such a proposal is contrary to Council Policy APD 4. Therefore, Council support for the structure plan should be conditional upon requiring 10% of the subdividable area for POS.

There is no objection to the crediting of 50% of all drainage areas, provided the area credited does not exceed 20% of the total POS required for the development as required by Council Policy APD 30 and the drainage areas offer some passive recreational function (ie not a conventional fenced drainage sump). In this case the areas to be credited for drainage represent 15.38% of the POS provision if 10% is required or 19.2% if 8% POS is required. However as mentioned above, the proposal excludes 50% of the drainage areas from the gross subdividable area and then seeks credit on such areas, which is not acceptable. Council support for the structure plan should also be conditional upon the requirement that either drainage areas are deducted from the gross subdividable area (and thus reduce the POS



liability, but no credit will be given for drainage) or are retained within the subdividable area and credit be given on 50%. Either method is consistent with Policy APD 30 and the difference between the two in terms of the area provide for unencumbered POS is marginal.

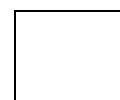
As to the issue of POS dimensions and function, there is no major objection to the proposed configuration and function of the POS to be provided. Given that active recreational POS facilities are to be provided on the Council owned reserve on Hammond Road in the future, the function of POS within the Success Lakes development need only provide for passive recreation and for local neighbourhood parkland functions.

The proposed POS features a linear spine of parkland following an existing drainage reserve that is to be rehabilitated and modified. This spine leads to a large central POS area including a lake and recreational facilities such as playground equipment and picnic areas. Two other POS areas are to contain remnant vegetation including paperbarks and eucalypts species, which have the potential to be attractive parkland areas. There is no objection to the parkland concepts proposed as there is an appropriate mix of local parks, passive recreational areas and conservation elements, however several matters will need to be addressed through the detailed design stage such as drainage requirements, revegetation, weed management, mosquito control and future maintenance.

Whilst the Water and Rivers Commission has not at the time of writing this report responded to the proposal, previous advice from this agency has indicated that groundwater availability in this region is limited. This is an important consideration in the context of the irrigation of POS areas and streetscape vegetation. The proponent should liaise with the Commission in regard to determining groundwater availability for the development.

Interface of POS and adjacent development

An important design consideration of the proposal is the manner in which POS areas relate to adjoining residential lots. A roadway is often a preferred treatment for the edge of POS areas for several reasons, however there is a trend re-emerging for houses to directly front or abut POS areas, with vehicular access provided by a laneway or road at the rear of the lot. The direct abuttal of house lots onto POS requires careful treatment of the interface such as through dwelling orientation, fencing design, lighting and pathways in the POS. There are advantages with this approach in terms of passive surveillance of POS areas, however if the interface treatment is poorly designed the POS area can become blighted and there are concerns with how visitor parking can be accommodated when roads abutting these properties are narrow and with no opportunity for off street parking.



It is recommended that the proponent be required to put forward alternative design concepts for those areas of the plan where residential lots are to directly abut POS areas. The preference will be for a road reserve to separate POS areas from adjacent lots.

Water Corporation Water Treatment Plant buffer – redesign of plan

Portion of the subject land is affected by the 340 metre buffer from the Water Corporation’s chlorination treatment plant. The structure plan indicates the rear of 18 “R10” lots as being within the buffer, with building envelopes situated outside the buffer to ensure no dwellings are located inside the buffer area.

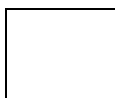
The Water Corporation has advised that it doesn’t support any component of a residential lot being within the treatment plant buffer and has provided a suggested redesign that shows a roadway within the buffer separating the buffer area from residential lots (see Agenda Attachments).

This suggested redesign is supported not only to accord with Water Corporation comments, but as it is a preferred design solution to that shown in the proposal for several reasons. One of which is that the land to be located on the western side of the suggested new road alignment can be incorporated as POS. This area contains good quality remnant bushland which has a better chance of survival in a contiguous POS reserve compared to the situation shown in the structure plan proposal, where the bushland would be contained within the rear yards of residential lots. The suggested redesign is also preferred due to it providing more efficient pedestrian access (via the bushland POS) towards the sporting fields and future local retail centre on Bartram Road. It is recommend that Council requires the redesign as a condition of adoption of the structure plan.

Primary School location

An ongoing issue for the developers of the Success Lakes Development Areas is the location of the future government primary school intended to serve Success Lakes residents. The SSDSP adopted the location of the school in the area shown on the structure plan as “subject to future resolution/negotiation”.

It is been the proponent’s view that the school site is more appropriately located on Lot 19 Hammond Road, that is, outside of the Gold Estates landholding. The consultant acting on behalf of the owner of Lot 19 Hammond Road has also weighed into the debate (see schedule of submissions) by objecting to the uncertainty that the proposed Success Lakes structure plan creates by indicating the SSDSP location for the school as “subject to future resolution/negotiation as opposed to its

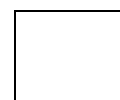


indication as a primary school site. This objection is considered to be valid.

Officers of the City have previously advised the proponent that the SSDSP school location is considered as the most appropriate as opposed to the Gold Estates suggested location on Lot 19 Hammond Road for the following reasons:

- i) As the major landowner in the Success Lakes Development Area, Gold Estates will be generating a significant proportion of the demand for the primary school and it is more equitable that the school be located on Gold Estates landholdings as opposed to a landowner whose only land within the Development Area will be totally taken up by the school site;
- ii) Hammond Road is to ultimately be a dual carriageway carrying significant volumes of traffic. Given that direct access between the school and Hammond Road won't be permitted and the northern boundary of the school site is a future recreation reserve for which there will be no road in between, the school is effectively bound by only two roads. This is undesirable in terms of traffic accessibility and pedestrian safety;
- iii) Given that the Lot 19 location for the school site is on land occupied by an operational poultry farm, the acquisition of the land for the school would need to, in addition to the value of the land, compensate that owner for relocation costs. This would add a significant burden to other developers within the Development Area in terms of their cost contribution towards the acquisition of the school site.
- iv) An argument put forward by Gold Estates that the Lot 19 location for the school site can capitalise on the adjacent future recreation facilities is invalid as the SSDSP location is adjacent and equally accessible to these recreation facilities;
- v) The SSDSP location for the school site is more central to the Development Area and thus offers more efficient pedestrian accessibility than the Structure Plan's proposed location
- vi) The Education Department, as future builder and manager of the school site, has confirmed with the City its preference for the SSDSP location for the reasons listed above;

There is no question that a primary school site is required within the Success Lakes Development area and that the SSDSP location is considered to be the most appropriate. It is the proponent's preference that the options remain open for the location of the school site. However, given that the consultant acting on behalf of the owner of Lot 19



Hammond Road has indicated it is soon to lodge a structure plan for Lots 19, 20, 21 and 206 Hammond Road, which presumably will not indicate the school on Lot 19, it timely for Council to reconfirm its stance on the location of the school. That is, in the location adopted by the SSDSP.

It is recommended that adoption of the structure plan be subject to the indication of the primary school site in the location established by the SSDSP to provide certainty on the planning of the Success Lakes Development Area.

Poultry farm buffer

As mentioned above, Lot 19 Hammond Road contains an operational poultry farm. Council's Town Planning Scheme requires that no incompatible subdivision or development be supported within the generic buffer area associated with the poultry farm on Lot 19 until the land use ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection.

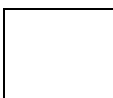
Whilst a scientific assessment of the poultry farm buffer was carried out by consultants on behalf of Gold Estates in 1999, the assessment was not endorsed by the City or the Department. Therefore the generic buffer of 500 metres, as established by the Department, applies.

The submission lodged on behalf of the owner of Lot 19 suggested that the structure plan should indicate the generic buffer area and be appropriately notated indicating that development within the buffer is subject to cessation of the poultry farm. This is a legitimate suggestion and should be a condition of Council support for the proposal.

Walkable accessibility

Whether a proposal is lodged for assessment under Liveable Neighbourhoods or not, it is critical that a structure plan design allow for safe and convenient pedestrian and cyclist access throughout the development. The Success Lakes area has a number of "attractors" within close proximity, to which residents will be drawn. These include the future rail station, freeway dual use path, future Atwell Secondary School, future shopping facilities on Bartram Road, primary schools and POS areas. A future high school is located north of Bartram Road east of the Freeway. There are several instances within the proposal where non-vehicular access could be significantly improved by minor redesign.

Council should note that achieving better pedestrian access is not as simple as requiring a series of public accessways (PAW's). PAW's are a feature of many suburbs within Cockburn and Council is often requested to consider their closure due to claims of anti-social behaviour and nuisance experienced by residents living near them. Rather, appropriate



road layout and the use of POS areas to act as a conduit for pedestrians and cyclists should cater for convenient non-vehicular access.

A series of recommended modifications are detailed on a plan included in the Agenda attachments.

Powerline easement

The high voltage transmission powerlines that traverse the subject land are a significant constraint on the development, both in terms of the restriction of the use of land underneath the lines and of the visual impact for adjoining areas.

The transmission corridor is protected by an easement in favour of Western Power, for which it has strict conditions on its usage. The proposal for use of part of the easement area for a wholesale nursery has merit, particularly if it can secure the area underneath the powerlines and make practical use of what is essentially an industrial corridor. The proposal for carparking as part of the Park and Ride station and for the local retail centre also has merit. The use of the powerline corridor will be a matter for Western Power to determine.

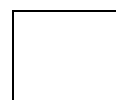
Local Retail centre

Council should note that the location of the proposed local retail centre is a departure from the location established by the SSDSP. SSDSP proposed a centre with a maximum floorspace of 1000m² on Gold Estates' landholding adjacent to the future rail station. The proponent has indicated that the relocation of the centre is necessary given that the revised location is more central to its catchment and if it were to be associated with the construction of the station, residents could be waiting a considerable time before it was built given that the station is a long term proposition.

Given the decision to relocate the Atwell South local retail centre east of Kwinana Freeway near the intersection of Gibbs and Lyon Roads and thus move it closer to the rail station, it is logical to support the relocation of the Success Lakes centre away from the western side of the rail station. The relocation has the potential to create a community focal point within the development and the use of the powerline area for parking associated with the centre also has merit.

Rail station precinct

The proposal indicates an area near the future rail station as "subject to further detailed planning". This is to retain flexibility with the design of development around the station given the uncertainty of when the station will be constructed and its exact location. It is important that options are kept open for the land immediately near the future station so as to



provide for convenient and direct access to the station and maximise patronage of the service. The structure plan allows for this further planning to occur without compromising other components of the plan.

Infrastructure and Servicing

The submitted Success Lakes Structure Plan report suggests that the subject land can be adequately serviced by the usual development infrastructure such as sewer, water supply, and electricity. Disposal of stormwater is the key servicing issue in this locality. The land lies within the Southern Lakes Drainage Scheme area and is subject to the South Jandakot Drainage and Environmental Management Plans. These plans require subdivision proposals not only address the issue of containing and disposing of stormwater but also address the issue of water quality, particularly nutrient removal. The proposals for stormwater disposal will require detailed reporting and plans by the proponents.

Concluding Comments

It is recommended that the Success Lakes Structure Plan be adopted subject to the modifications detailed above and other changes and advice notes listed in the recommendation.

Strategic Plan/Policy Implications

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

2. Planning Your City

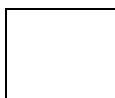
- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
- *"To foster a sense of community within the 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 ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

4. Facilitating the needs of Your Community

- *"To facilitate and provide an optimum range of community services."*
- *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*



- *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*

5. Maintaining Your Community Facilities

- *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*
- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

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
APD26	Control Measures For Protecting Water Resources In Receiving Environments
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

Budget/Financial Implications

The development of the Success Lakes Estate will lead to the creation of new roads, drainage systems and open space areas that will ultimately become a management responsibility of the City.

New residential development, whilst expanding the rate base, will see demand increase for a variety of the City's services.

It is not possible to predict the extent of the financial implication for the City.

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

Nil

1332. (AG Item 15.1) (Ocm1_10_2001) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)



RECOMMENDATION

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

COUNCIL DECISION

MOVED Cllr Waters SECONDED Cllr Oliver that the recommendation be adopted.

CARRIED 9/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil.

1333. (AG Item 15.2) (Ocm1_10_2001) - REQUEST FOR COPIES OF LEGAL OPINIONS - MR J GRLJUSICH (1335) (ATC)

RECOMMENDATION

That Council inform Mr J Grljusich that copies of legal opinions obtained by Council in relation to his requests for financial assistance regarding an appeal and reimbursement of funds in respect of the Douglas and Martin and Vicary Inquiries will not be made available to



him.

COUNCIL DECISION

MOVED Deputy Mayor Graham SECONDED Cllr Allen that Council inform Mr J Grljusich that copies of legal opinions obtained by Council in relation to his requests for financial assistance regarding an appeal and reimbursement of funds in respect of the Douglas and Martin and Vicary Inquiries will not be made available to him due to their confidential nature and to do so would conflict with Council Policy.

CARRIED 9/0

Explanation

It was stated that the content of legal opinions and other expert advice is not permitted to be disclosed to third parties, and if Council did so it would be in conflict with Council Policy SES1 - "Obtaining Legal and Other Expert Advice".

Background

Mr J Grljusich has made previous requests for financial assistance regarding an appeal against the findings of the Douglas Inquiry and the Martin and Vicary Inquiry. Council at its meeting on 21 August 2001 decided to advise Mr Grljusich that:

- (1) it is not prepared to finance an appeal on his behalf against the Martin and Vicary and Douglas Inquiry findings; and
- (2) should any appeal instigated by himself result in the findings of the Douglas Inquiry being overturned, then Council would be prepared to reconsider its position with regard to the payment of legal expenses as determined by Council at its Meeting of 28 September 1999, which limited payment to a maximum of \$40,000.

Submission

Mr Grljusich has now made a submission to Council as follows:

Could you please place the following request before Council on my behalf.

From your previous correspondence you have referred to legal opinions, that Council has had to reply upon whilst deliberating upon my requests regarding financial assistance for an appeal and the reimbursement of funds from the Douglas and Martin and Vicary



Inquiries. I would like copies of all legal opinions you have received appertaining to the above.

Report

Mr J Grljusich has made several requests to Council for reimbursement of expenses in regard to the Douglas Inquiry and the Martin and Vicary Inquiry. He has also made requests for Council to finance an appeal on his behalf against the findings of these Inquiries.

Council has obtained legal advice during consideration of his requests in regard to the nature of the Inquiries findings and their relevance to Council's previous policy on the subject of legal expenses for Inquiries.

The legal advice obtained by Council has been considered to be of a confidential nature and treated accordingly. The advice has been used by Council when considering Mr Grljusich's requests and has formed the basis for refusal of those requests. Council's Policy SES1 - "Obtaining Legal and Other Expert Advice" states that:

2. *where copies of legal or other expert advice are made available to Elected Members, the content of the advice is not permitted to be disclosed to third parties, unless by resolution of Council", following the opinion of the Solicitor or specialist who provided advice to the Council about the possible consequences of making that advice available to a third party.*

While the Solicitor who provided the advice has not been asked for an opinion it is considered that due to the confidential nature of the advice, it would not be appropriate for Council to give copies of the advice (which is the property of Council) to Mr Grljusich.

Strategic Plan/Policy Implications

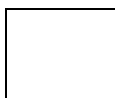
Policy SES1 - "Obtaining Legal and Other Expert Advice" is relevant.

Budget/Financial Implications

No budget implications.

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

Nil.



1334. (AG Item 15.3) (Ocm1_10_2001) - MR B WHEATLEY - REQUEST FOR COUNCIL TO FUND AN APPLICATION TO THE SUPREME COURT TO OVERTURN ADVERSE FINDINGS (1335) (ATC) (ATTACH)

RECOMMENDATION

That Council advise Mr B Wheatley that it is not prepared to fund an application to the Supreme Court to overturn adverse findings against him.

COUNCIL DECISION

MOVED Deputy Mayor Graham SECONDED Cllr Allen that Council defer this matter to enable officers to analyse the additional information provided by Mr Wheatley and report their findings to Council at the November Council Meeting.

CARRIED 9/0

Explanation

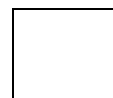
When Mr B Wheatley initially wrote to Council requesting assistance to fund his application, insufficient information was provided at the time. Council replied to Mr B Wheatley requesting him to provide the additional information prior to the Agenda being prepared for the October Council Meeting. This documentation was only presented to administration on 12 October, which was too late to be incorporated into the Agenda papers. Given the short time provided, it was considered that more time was required to adequately study the documents so that an informed decision could be made.

Background

Mr Wheatley was a Councillor of the City of Cockburn at the time Council was suspended and subsequently dismissed following the Douglas Inquiry Report findings. During the course of the Douglas Inquiry, Mr Wheatley applied for and was reimbursed the sum of \$3,000 under the provisions of the now revoked Policy A1.18.

At its meeting on 17 October 2000 following receipt of legal advice Council decided that by virtue of Clause 18 and 19 of Policy A1.18, the City's authorisation of financial assistance to Mr Wheatley (and others) was revoked. Policy A1.18 was subsequently revoked.

Mr Wheatley replied to advice of the revocation by Council that *the purported revocation is of no effect as the conditions set out in Clause 18 have not been satisfied*. A reply was made to Mr Wheatley that the



existing contract between yourself and Council regarding legal expenses remains intact until such time as all the conditions set out in Clause 18 of Policy A1.18 has been satisfied. No further claim for reimbursement of expenses in respect of the Douglas Inquiry has been made by Mr Wheatley.

Submission

In reply to an invitation to a Council function to recognise his service on Council Mr Wheatley replied by facsimile to the Mayor as follows:

I do not consider it appropriate that I attend on 5 September 2001 while the adverse findings made against me in the Douglas Inquiry remain on the record.

I have independent legal advice confirming that the Douglas Inquiry findings against me are both wrong in law and fact.

As a fellow Councillor you are well placed to determine whether the Douglas Inquiry resulted in the recognition I deserve.

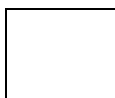
I request that the Council show its appreciation for the contribution I made to the council and the community by assisting me to fund an application to the Supreme Court to overturn the adverse findings made against me. This was clearly contemplated by the original funding policy for the Inquiry which remains in force.

As I was not in anyway responsible for the initiation of the Douglas Inquiry it is totally unfair that I am required to fund a challenge to incorrect findings to vindicate my conduct as a Councillor.

I look forward to receiving your acknowledgement of my contribution as requested above.

Report

Mr Wheatley, during the course of the Douglas Inquiry applied for and was reimbursed the sum of \$3,000 under the provisions of the now revoked Policy A1.18. This was the maximum amount which could be paid by the Chief Executive Officer under delegated authority. The Policy provided in Clause 10 *The Council may give consideration to the provision of financial support exceeding \$3,000 in total, only if full details of the additional expense and the reason for it, are provided.* Mr Wheatley did not make any claim other than the \$3,000 during the course of the Douglas Inquiry up until his facsimile detailed in the submission above.



The key to Mr Wheatley's claim is his belief that Policy A1.18 provided an avenue for Council to fund an application to the Supreme Court to overturn the adverse findings against him. Attached to the Agenda is a copy of the former Policy A1.18.

Following the facsimile to the Mayor by Mr Wheatley, the Mayor replied, in part, as follows:

With regards to your request for funding, Council has recently considered a similar request for financial assistance to fund an appeal and determined that it was not prepared to finance an appeal. The advice which has been presented, is that the policy did not provide for Council to fund appeals but rather, it would not pursue the recovery of legal expenses paid until all avenues of appeal have been exhausted.

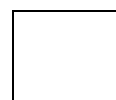
I will pass your letter to the Chief Executive Officer for the request to be submitted to Council. It may be in your best interest to provide information relative to the processes involved and potential cost of an appeal, together with any advice on the authority of the Supreme Court to actually overturn findings made by the Douglas Inquiry.

It would be appreciated if this information could be provided to Mr Brown by 3 October so that it can be included in the Agenda for the October Council Meeting.

Mr Wheatley has not forwarded any further information in support of his claim. It is presumed that Mr Wheatley's claim is based on Clause 18 of Policy A1.18 which reads as follows, immediately under a heading of *Repayment of Assistance*

- 18. An indemnity or authority given under this Policy, or a contingent authorisation under Clause 15 shall be and is hereby revoked, in the following circumstances:*
- (a) if in the Inquiry or otherwise, it is found that a person has acted illegally, dishonestly, against the interests of the City or otherwise in bad faith in connection with the matter for which the person was granted financial support or given contingent authority; and*
 - (b) all opportunities for appealing against or otherwise challenging that finding have been exhausted; or*
 - (c) information provided to the Chief Executive Officer in the application is materially false or misleading.*

This was one of the clauses considered by Council on 17 October 2000 when revoking any authorisation of financial assistance.



It is considered that Section 18(b) of the previous Policy A1.18 was not intended to provide funding for individuals to appeal against an Inquiry, but rather to provide a timeframe to consider when determining when an authority for financial assistance should be revoked.

However, the policy is no longer in effect and therefore, the request needs to be considered on its merits. Over 12 months has passed since the Douglas Inquiry handed down its report. Previous legal advice has indicated that no known grounds are available for any valid appeal against the Douglas Inquiry findings.

In the absence of any further information from Mr Wheatley it is considered that there are no grounds to support Mr Wheatley's application for funding of a Supreme Court challenge to the Douglas Inquiry findings against him.

Strategic Plan/Policy Implications

No Policy exists on this matter.

Budget/Financial Implications

No funds have been allocated in the Budget for appeals to the Supreme Court.

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

Nil.

1335. (AG Item 16.1) (Ocm1_10_2001) - BLACKSPOT PROGRAM - INTERSECTION OF ROCKINGHAM ROAD AND COLEVILLE CRESCENT, SPEARWOOD (450498) (450378) (JR) (ATTACH)

RECOMMENDATION

That Council:

- (1) advise Main Roads WA and the Phoenix Park Shopping Centre, that Council commits to complete the approved Federal Road Safety Black Spot Program by 30 June 2002, namely ban all right turn movements at the intersection of Rockingham Road and Coleville Crescent; and
- (2) advise the Phoenix Park Shopping Centre that Council supports their Revised Proposal traffic scheme option to allow right turn movements at their southern Rockingham Road entrance, subject to the following conditions:



1. The Centre being prepared to fund the additional cost of the entire project;
2. Approval of the construction drawings being subject to no adverse findings from an independent road safety audit, undertaken by engineering consultants appointed by the Centre;
3. The works being undertaken by suitable arrangements with Council's Engineering Department; and
4. Council reserving the right to review and vary turning movements in Rockingham Road for the Shopping Centre in the future should there be problems or concerns.

COUNCIL DECISION

MOVED Cllr Edwards SECONDED Cllr Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

At the Ordinary Meeting of Council held on 18 September 2001, it was resolved that the proposal to undertake road construction work to prevent right hand movements at the intersection of Rockingham Road and Coleville Crescent, together with the Phoenix Park Shopping Centre proposal to allow right hand turn movements at their southern Rockingham Road entrance, be considered at a workshop to be arranged by the Mayor with Elected Members and appropriate staff in attendance.

Submission

Accordingly, a Workshop session was held on Monday 8th October 2001. The Phoenix Shopping Centre's management and traffic consultant, David Porter Consulting Engineer, provided a presentation prior to the Workshop proceeding.

Report

The request for the retention of right turn access to the southern Phoenix Shopping Centre car park was made by the Shopping Centre as they claimed that the banning of the right turn movement at Rockingham Road/Coleville Crescent would affect their trade.



The treatment options considered for the works and access to the Shopping Centre, in conjunction with the Phoenix Shopping Centre's consultant, were as follows and are schematically indicated in the attachment to the Agenda:

- **Existing Design** - Do nothing option.
- **Funded Option** - Extend traffic island in Rockingham Road at Coleville Crescent and associated treatment at Coleville Crescent to prevent right turns. No other treatments to allow right turns at Shopping Centre entrance.
- **First Proposal** - Extend traffic island in Rockingham Road at Coleville Crescent and associated treatment at Coleville Crescent to prevent right turns. Opening treatment to median island and associated widening/turn pockets to allow right turns at existing Shopping Centre entrance.
- **Revised Proposal** - Extend traffic island in Rockingham Road at Coleville Crescent and associated treatment at Coleville Crescent to prevent right turns. Move Shopping Centre entrance about 8 metres north and treatment as per First Proposal.
- **Traffic Signal Proposal** - Extend traffic island in Rockingham Road at Coleville Crescent and associated treatment at Coleville Crescent to prevent right turns. Move Shopping Centre entrance to south to line up with Kent Street and create a signalised intersection.

In regard to the possible treatments, the presentation and Workshop addressed the following issues:

- the numbers of right turn movements at the Rockingham Road/ Coleville Crescent intersection that use the Shopping Centre. It was indicated that about 600 of the 800 daily right turn movements use the Shopping Centre.
- funding of the additional works proposed by the Shopping Centre, including possible relocation of a major Telecom manhole. The Shopping Centre indicated that they would bear all the additional costs.
- addressing safety audit concerns with the proximity of Kent Street and bus stops to the proposed median opening. In this regard, it is considered that the Revised Proposal traffic scheme would minimise these concerns.
- proximity of adjacent median openings and possible confusion with multiple turning options.



- addressing verge levels with road widening.
- effect of reduced footpath/verge area for pedestrians with shopping centre proposal, particularly conflicts and lack of space at the car park entrance. This would need particular attention at the detailed design stage with the Shopping Centre's proposal.
- safety of pedestrian crossing facilities on Rockingham Road. This is of concern with the range of turning options for motorists likely to confuse some pedestrians.
- addressing of alternative route using Coleville Crescent and Spearwood Avenue.
- timing of the works to not conflict with the Shopping Centre's Christmas trading period.

Following the Workshop, it is considered that the Shopping Centre's Revised Proposal could be supported subject to conditions addressing the additional costs, pedestrian and general safety, responsibility and timing for construction and the ability to review the impact of the new access arrangements.

Strategic Plan/Policy Implications

"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."

Budget/Financial Implications

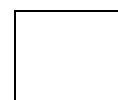
Funds are available in the current Budget for the Black Spot project. Account No. 691503, amount \$34,692.

Other traffic treatment is to be funded by the Phoenix Park Shopping Centre.

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

Nil

1336. (AG Item 17.1) (Ocm1_10_2001) - PARTIAL CLOSURE OF SUSSEX STREET, SPEARWOOD TO FACILITATE THE CREATION OF "THE CITY OF COCKBURN RSL MEMORIAL PARK" (8406) (LCD) (ATTACH)



RECOMMENDATION

That Council:

1. resolve to close that portion of Sussex Street as depicted in the diagram attached to the Agenda and which forms part of this report;
2. request the Minister for Lands to close that portion of Sussex Street as depicted in the diagram; and
3. accept the Management order for the proposed reserve.

COUNCIL DECISION

MOVED Clr Edwards SECONDED Clr Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

Council at its meeting held on the 21 November 2000 decided to approach the Department of Land Administration regarding the proposal, and to set aside funds to cover the administration and survey costs following an approach made by the Cockburn RSL to establish a Memorial Park on site.

Submission

N/A

Report

An advertisement was published in a local newspaper informing the public of the proposal as prescribed by the Land Administration Act 1997 and objections would be received up till the 7 July 2001. The central service agencies were also informed of the proposal and no objections were received from the public or the central service agencies.

The Minister for Lands via the Department of Land Administration will be requested to partially close Sussex Street and create a reserve having a dedicated purpose of an RSL Memorial Park.

Council's decision of November 2000 was taken on the understanding that Sussex Street had already been formally closed. Unfortunately this not the case as the Department of Land Administration advises that Sussex Street has not been formally closed.



The recommendation will allow this matter to be finalised.

Strategic Plan/Policy Implications

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

Budget/Financial Implications

Funds are available on the budget for this project.

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

Nil

1337. (AG Item 17.2) (Ocm1_10_2001) - SOUTH LAKE LEISURE CENTRE CRECHE FEES (8143) (SH) (ATTACH)

RECOMMENDATION

That Council maintain the current membership pricing structure as it relates to Creche usage.

COUNCIL DECISION

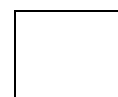
MOVED Clr Edwards SECONDED Clr Whitfield that the recommendation be adopted.

CARRIED 9/0

Background

A report was requested by Council at its Meeting on 18 September 2001 on the Crèche Fees and a comparison of pricing structures of membership packages as applicable to other comparative Council owned and/or operated leisure centres to the South Lake Leisure Centre.

The South Lake Leisure Centre is the City of Cockburn's premier recreation venue. At the June Ordinary Council Meeting, the Council passed a recommendation that the South Lake Leisure Centre change its membership structure. As part of these changes, the membership package is made up of areas the patrons wish to purchase. This also applies to the use of the creche. Non member patrons using other facilities also have use of the creche at the established charge rate.



Submission

N/A

Report

Creche Facilities

The Creche facilities at the South Lake Leisure Centre provide parents with a venue to leave their children while enjoying use of the Centre's facilities. The Creche features 2 large airconditioned rooms, a TV/Quiet room, large outdoor play area, outdoor play equipment and a wide variety of toys for all ages. The Creche provides a high level of care and operates on a minimum ratio of 1 attendant to 10 children. Compared with other creche facilities, the South Lake Leisure Centre creche generally offers a superior level of service and care than similar services.

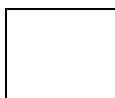
The South Lake Leisure Centre offers a number of services that are complemented by the Centre's creche. These services include gym, aerobics, aquarobics, swimming lessons, Kindy gym classes, morning ladies sport programs, yoga, venue hire and casual swimming.

The South Lake Leisure Centre crèche is an integral element in the running of all of these services. Without the creche facilities, the South Lake Leisure Centre would lack the patronage to run many of these services, particularly the class/sessional based services such as aerobics, aquarobics, Kindy gym, swimming lessons, yoga and morning sports.

The Centre's crèche prices are as follows:

Item	Fee	GST	Total
Creche (1 st child) 1.5 hours	2.00	0.20	2.20
Creche (additional child) 1.5 hours	1.00	0.10	1.10
Creche (1 st child) 2 hours	2.45	0.25	2.70
Creche (additional child) 2 hours	1.27	0.13	1.40
Creche 10 Voucher(1 st child) 1.5 hours	17.27	1.73	19.00
Creche 10 Voucher(1 st child) 2 hours	21.19	2.11	23.30
Childcare facilities are for South Lake Leisure Centre patrons only. Creche Opening Hours: Monday to Friday – 8.45am –1.00pm Public Holidays – 8.45am – 12.00pm			

Prior to 1 July 2001, members were offered free use of the creche facilities. As part of the membership restructure, free creche was removed from the memberships. The South Lake Leisure Centre is providing free creche on all term memberships bought prior to 1 July 2001, until the end of their membership term. There are currently 6 patrons who this applies to.



All patrons on membership packages purchased after 1 July receive a 20% discount on creche vouchers, paying \$15.20 (1½ hours) or \$18.64 (2 hours) for 10 visits.

Creche Costs

The expenses, income, entry fee, visits, net loss and cost per visit associated with the creche over the last five financial years are as follows:

	96/97	97/98	98/99	99/00	00/01	**01/02
Income \$	8998	12212	15467	17519	20491	22600
Expenses \$	67050	77250	82750	91850	96500	75000
Loss \$	58052	65038	67283	74331	76009	52400
Entry Fee (1 st child)	2.00	2.00	2.00	2.00	2.20*	2.20*
Visits / year	11708	11485	13367	13376	12277"	13000
Cost per visit \$	5.73	6.73	6.19	6.87	7.86	5.77

*Price includes GST.

** Budget Estimate

" Centre was closed or restricted for a portion of the year due to upgrades.

As can be seen, the cost of running the Creche has increased each year disproportionately to the number of visits each year. This is due to increases in wage rates and fixed costs.

The visits/year figure shows a trend of increased usage over time. This trend was interrupted in 2000/2001 when the Centre was forced to close twice for repairs to the pool concourse.

Competitor Review

Creche

A review of creche facilities was conducted on a number of Local Government Recreation Centres and private health clubs. Costs are based on 1st child casual prices only.

Venue	1hour Cost \$	1.5 hour Cost \$	2hour Cost \$	Creche inclusive in membership*
Leeming Rec. Centre	-	-	2.50	No
Gosnells Leisure World	-	2.40	-	No
Loftus Rec. Centre	1.65	-	-	No
Park Rec. Centre	-	-	2.80**	No
Joondalup Arena	-	3.30 2.20/mem	-	No
Altone Park Leisure Centre	1.70	-	3.40	No
Kwinana Rec. Centre	1.40	-	-	No

Belmont Oasis Leisure Centre	2.75	-	-	12 month m/ship only
Bayswater Waves	2.65	-	-	No
Bold Park Aquatic Centre	-	2.00	-	No
Beatty Park	-	2.50 1.60/mem	-	No
Morley Rec. Centre	2.20	-	-	Top package only
Armadale Rec. Centre	1.65	-	-	No
Warehouse Fitness	-	-	-	1 st Child only
Legends Gym	-	-	1.00**	No
Lords	-	-	4.00	No
Melville Rec. Centre	-	-	2.50	No
Fremantle Leisure Centre	-	2.50	-	Yes
BC (All Clubs)	-	-	-	Yes

* Standard membership only (does not include special offers or promotions).

** Time limit does not apply.

As can be seen from the above table, very few facilities offer free creche with standard membership packages.

South Lake Leisure Centre's creche price structure is competitive with other facilities. When taking into account the discounts offered on vouchers for members, the creche fees become some of the lowest for leisure centres in the metropolitan area.

Memberships

A comparison of the membership prices available at the South Lake Leisure Centre, compared with other Centres shows that the Centre's membership packages are competitive with several other Centres. (See attachment)

The membership structure adopted by the South Lake Leisure Centre presents members with a far greater range of membership options than are available at any of the Centres examined. This means that members can choose and pay for the activities they want to use, at a timeline that suits their needs.

The only Centres offering memberships significantly cheaper than South Lakes were Fremantle, Swan Park and Kwinana. Fremantle is clearly a heavily subsidised facility, offering cheaper membership options inclusive of the creche facilities. The Swan Park and Kwinana facilities represent a lower quality facility in an area with greater socioeconomic constraints.

Membership Restructure



As mentioned, the changes to creche fees for members were a part of a general restructure of the South Lake Leisure Centre's membership packages. Prior to 1 July 2001, patrons had to purchase either a Swim and Gym or Aerobic and Aquarobic membership. Under this schedule, patrons were unable to combine options or pay for 1 option only.

Additionally, the 80% of members who did not use the creche were forced to subsidise the 20% of members who made use of these facilities. As part of the restructure, free creche was removed from memberships to reduce the burden on the majority of members who did not use the creche facilities. Due to the high cost of running the creche, it was not viable to include creche usage as a membership option.

The new structure was designed to be more marketable and cost effective for most patrons, as they are able to choose what options they wish to use and only pay for those options. The options provided are Swim (Spa/Sauna), Gymnasium, Aerobics and Aquarobics.

At 30 June 2001, the Centre had 368 members. Since the restructure of the membership packages, the South Lake Leisure Centre has experienced significant growth in its membership base. At the beginning of September, the South Lake Leisure Centre had increased its membership base to 473 members. This equates to growth of 28% in two months.

Since 1 July 2001, the Centre has attracted 249 new members. Consequently, 144 members left the Centre following the change in the membership structure. A number of these members were on arrangements where they had not had an increase in membership for a number of years.

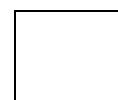
In June 2001, there were 74 members who used the creche facilities during their visits to the Centre. Currently there are 48 members who use the creche facilities during their visits to the Centre.

Implications of Membership Restructure

The changes made to the membership structure bring the South Lake Leisure Centre in line with most other local government recreation centres.

An examination of the creche figures and membership numbers clearly show the effect of the membership restructure on the creche usage and overall Centre usage.

The number of members using the creche has decreased as a consequence of the restructure. This was an anticipated consequence of the change. However, the Centre expects that the influx of new members will reverse this trend and as the membership base increases, so too will the number of members using the creche facilities.



The number of members at the Centre has increased significantly. This is directly related to the membership restructure and reduced prices offered to members. The increase in membership has had a positive effect on the Centre's usage statistics, with more members using the facility more often.

Considering the number of customers lost versus the increase in memberships, the changes to the membership structure has had an overall positive effect on the South Lake Leisure Centre, both in relation to usage and financial viability.

If the Centre were to introduce a creche option in the membership, the Centre would either be forced to increase membership prices to compensate for the increased costs or increase its budgeted operating deficit for the financial year.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

1338. (AG Item) (Ocm1_10_2001) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

- (1) Cllr Tilbury requested that a report be prepared addressing details of all dangerous goods (including their states (eg. solid, liquid, gas, aqueous), volumes, concentrations, uses, contingency plans etc.), that are known to be either transported through, stored or manufactured in the City of Cockburn.
- (2) Mayor Lee requested that a report be presented to a meeting of Council, dealing with the issue of total restoration and beautification of the Memorial Hall and its surrounds. The report is to address issues such as the removal of the paint and exposure of the original stonework and possible rendering of the later additions to give the impression of stonework, plus the implications of having the bus station located where it currently is, or moved to lessen the incidents of vandalism to the hall. The report should also address the issue of the landscaping



around the hall and the potential of leasing the hall to the Cockburn Branch of the RSL.

**1339. (AG Item 24.1) (Ocm1_10_2001) - RESOLUTION OF COMPLIANCE
(Section 3.18(3), Local Government Act 1995)**

RECOMMENDATION

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.

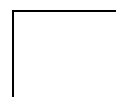
COUNCIL DECISION

MOVED Cllr Humphreys SECONDED Cllr Allen that the recommendation be adopted.

CARRIED 9/0

Mayor Lee acknowledged the presentation of an Award that was made to Council at an Award's evening held at the Radisson Observation City, for being a finalist for Perth's best Local Government in the Keep Australia Beautiful Awards. This was made for Council's commitment in continuing to improve the City and its appearance.

Mayor Lee also mentioned that while he and Mr Brown were visiting Sydney, they also made some visits to a few local authorities to see their Best Practice Techniques and Procedures. Mayor Lee and Mr Brown were presented with a book on the "History of Wyong Shire" and "Hidden Heritage of the Fairfield Community". Mayor Lee presented these books to Mr Brown for them to be placed in the City's Library.



Mayor Lee acknowledged a letter that was received from Stephen Cole, Director, Department of Local Government which outlined a comparison of the overall assessment of Agendas and Minutes of Local Governments throughout the State. The letter stated, *"Warm congratulations to your Council on its "excellent" assessment. The Council and community can be confident that the documentation associated with the decision-making processes of the Council are at the highest standard"*.

Mayor Lee also mentioned that Steve Smith, an Assessor and a highly regarded person in Local Government also mentioned that *"overall the Council's Agendas and Minutes are the best that she has assessed so far. Congratulations!"*.

MEETING CLOSED 8.00 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:/...../.....

