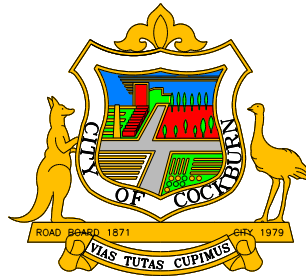


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

**FOR
TUESDAY 25 MAY 1999**

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 25 MAY 1999 AT 7:30 P.M.

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 25 MAY 1999 AT 7:30 P.M.

1. **DECLARATION OF OPENING**

2. **APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)**

Nil

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

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

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

Nil

5. **APOLOGIES AND LEAVE OF ABSENCE**

Nil

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

Nil

7. PUBLIC QUESTION TIME

Nil

8. CONFIRMATION OF MINUTES

**8.1 (OCM2_5_1999) - ORDINARY MEETING OF COUNCIL -
11/5/1999**

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

12. ADDITIONS TO THE AGENDA

Nil

13. COUNCIL MATTERS

**13.1 (OCM2_5_1999) - PROPOSED NEW CODES OF CONDUCT
AND STANDING ORDERS LOCAL LAW (1054) (DMG)
(ATTACH)**

RECOMMENDATION

That Council:

(1) adopt the Codes of Conduct for Councillors and Staff, as

contained in the attachments to the Agenda, and;

- (2) submit for public comment the proposed Draft Local Law Relating to the Conduct of Proceedings and the Business of Council, as contained in the attachments to the Agenda.

Note: The Presiding Member is to read aloud or cause to read aloud, a summary of the purpose and effect of the proposed local law.

COUNCIL DECISION

Background

Amendments to the Local Government (Administration) Regulations, effective from 23 April, 1999, requiring Council to review its Codes of Conduct and insert provisions relative to the receipt of gifts and the disclosure of personal (non-financial) interests. It is considered appropriate for Council to simultaneously contemplate relevant issues of the Inquiry Report recently conducted and review its Standing Orders Local Law in light of the Report's recommendations.

Submission

N/A

Report

Recent amendments to the Local Government (Administration) Regulations require all Councils in this State to:-

- (1) Require reasons for decisions to be included in the minutes of a meeting where Council makes a decision which is **SIGNIFICANTLY** different to a written recommendation from an employee. This does not apply where a deferral motion to return the matter to the employee for further information and re-presentation to a future Council meeting to consider, is passed.
- (2) Require the Codes of Conduct for Councillors and Staff to contain provisions relating to the acceptance of token gifts and the declaration of non-financial (personal) interests.

- (3) Require that a Councillor or staff member shall not answer a question directed to them at Public Question Time in which they have a financial interest, and that another person will need to respond to the question in these circumstances. The obligation to otherwise disclose interests in matters raised at Public Question Time has been removed.

In addition, the recent Inquiry into the City of Cockburn recommended that Council establish a dispute resolution procedure in order to address issues upon which Councillors and staff have conflicting views and cannot be satisfactorily resolved.

In order to address these issues, the following actions are recommended:-

- (1) Council adopt new Codes of Conduct for Councillors and Staff which include provisions referring to the receipt of gifts and the declaration of personal, or non-financial interests. A copy of the proposed Codes is attached.
- (2) Council amend its Standing Orders Local Law to include the requirement to disclose interests of a non-financial nature. This has been included as Part 21 of the attached Draft Standing Orders.
- (3) Council include in its Standing Orders amendment the requirement for Councillors proposing to alter the substance or effect of a recommendation to provide where practicable, the proposed alteration in writing, to the Chief Executive Officer, including the reason for the proposed alteration. This has been included as an addition to Part 10.1 of the Draft.
- (4) Council include in its Standing Orders amendment a dispute resolution procedure, to address matters of conflicting views between Councillors and Staff. This has been included as Part 22.5 of the Draft.
- (5) Council include in its Standing Orders amendment a requirement for the disclosure of an interest in matters arising from Public Question Time only apply when a question is being directed to a relevant person, in which circumstances the person is to declare an interest in the matter and have the question responded to by another person. This has been included as an addition to Part 19.2(3) of the Draft, and the inclusion of a new Part 20.1(7).

With the exception of these proposed amendments, the Draft Standing Orders are identical to those recently rejected by Council, the primary reason for which was a disagreement with the inclusion of the conflict of interest provisions (Part 21) by some Councillors at that time.

It is considered that the inclusion of these matters in the manner recommended will strengthen the effect of these documents and portray the decision making process of Council in a more accountable way.

Strategic Plan/Policy Implications

Strategic Plan Items 1.2.1 and 1.7.1.

Budget/Financial Implications

Advertising requirements provided for within Operational Budget.

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

Nil

13.2 (OCM2_5_1999) - PROPOSED REVOCATION OF COUNCIL DECISION 19/1/99 - OCM ITEM 9.6 - PACKHAM DEVELOPMENT AREA OPEN SPACE FUNDS (CLR PECOTIC) (9235; 104081) (DMG) (ATTACH)

RECOMMENDATION

That Council revoke that part of the decision of Council taken on the 19th January 1999 and which has not been actioned, as follows:-

1. *that the City of Cockburn distribute as progress payments all of the funds held for Packham Development Area POS purposes together with interest including funds held by Urban Focus, to all the landowners who contributed their land for POS in excess of 10% requirement;*
2. *that distributions be made in correct proportions to all the landowners who contributed their land for POS in excess of the 10% requirement within 14 days of this meeting;*
3. *that all Packham Development Area POS funds collected from the future subdivisions together with interest be paid in correct proportions to all the landowners who contributed their land for POS in excess of 10%*

requirement, within 14 days of the date the funds received by this Council and continue to do so until all the funds for Packham Development Area POS are received and paid in full to the landowners;

4. *that Council's authority to distribute the Packham Development Area POS funds is in accordance with the verbal and implied agreements by this Council and the landowners who contribute their land for POS purposes in excess of their 10% requirement.*
5. *that with approval of this resolution this Council is ratifying verbal and implied agreements with the landowners who contributed their land for POS in excess of their 10% requirement. Furthermore, that the City of Cockburn prepare at its cost written agreements which reflect the verbal and implied agreements which are to be signed by both the landowners and this Council. "*

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

At the Council Meeting of the 19th January 1999, Council resolved as follows in respect to the abovementioned item:-

"That the Packham Development Area Public Open Space (POS) funds to take place as follows:

1. *that the City of Cockburn distribute as progress payments all of the funds held for Packham Development Area POS purposes together with interest including funds held by Urban Focus, to all the landowners who contributed their land for POS in excess of 10% requirement;*
2. *that the City of Cockburn demand repayment of all Packham Development Area POS funds held by Urban Focus together with interest for distribution purposes by this Council, in accordance with Council's 6th of June 1989 resolution and in accordance with District Zoning Scheme No.1 Amendment 240. The above complies with Section 20C of the Town Planning and Development Act;*

3. *that distributions be made in correct proportions to all the landowners who contributed their land for POS in excess of the 10% requirement within 14 days of this meeting;*
4. *that all Packham Development Area POS funds collected from the future subdivisions together with interest be paid in correct proportions to all the landowners who contributed their land for POS in excess of 10% requirement, within 14 days of the date the funds received by this Council and continue to do so until all the funds for Packham Development Area POS are received and paid in full to the landowners;*
5. *that Council's authority to distribute the Packham Development Area POS funds is in accordance with the verbal and implied agreements by this Council and the landowners who contribute their land for POS purposes in excess of their 10% requirement.*
6. *that with approval of this resolution this Council is ratifying verbal and implied agreements with the landowners who contributed their land for POS in excess of their 10% requirement. Furthermore, that the City of Cockburn prepare at its cost written agreements which reflect the verbal and implied agreements which are to be signed by both the landowners and this Council.*

CARRIED"

By facsimile message dated the 27th January 1999, containing the requisite number of signatures pursuant to Regulation 10 of the Local Government (Administration) Regulations 1996, a request to revoke this decision was received. The signatories were Clr Separovich, Clr Hunt, Clr Lee, Clr Humphreys and Clr Waters.

Accordingly, no administrative action to carry out this decision of Council took place, pending consideration of the proposal to revoke it.

The revocation motion was subsequently lost due to the lack of an absolute majority of Council supporting it. Council's administration took legal advice on the outcome and were advised that it was possible to implement paragraph 2. Of the decision. Accordingly, Urban Focus was sent a letter of demand and responded that it did not hold any funds (see attached letter).

Submission

N/A

Report

The recent Inquiry into the City, identified this issue as one which should be reconciled. This can be achieved by revoking those parts of the decision not capable of being implemented, thereby clearing that decision from Council's records. Accordingly, Commissioner Donaldson submitted the revocation notice in accordance with the Local Government Act and Regulations requirements.

It is appropriate for this matter to be finalised in the recommended manner.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

- 13.3 (OCM2_5_1999) - PROPOSED REVOCATION OF COUNCIL DECISION 18/3/97 - (SPC3/97) ITEM 17.1 - OMBUDSMAN - MR G.N. GRLJUSICH, LOT 17 HAMILTON ROAD, SPEARWOOD (92091)(RWB)(ATTACH)

RECOMMENDATION

That Council revoke the decision of Council taken on the 18th March 1997 as follows:-

"the Ombudsman be advised that Council does not consider that it has acted improperly in relation to the rezoning of Lot 17 Hamilton Road and therefore, is not prepared to make an ex gratia payment to Mr G.N. Grljusich, now or in the future."

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION**Background**

The background of this matter covers a period of many years culminating in the decision of Council taken on the 18th March 1997. The attached correspondence adequately covers the sequence of events which took place over that time and explains the reasons for the outcome.

Submission

N/A

Report

Correspondence has been received from the Ombudsman requesting Council to reconsider its decision of the 18th March 1997, particularly in view of the fact the matter was highlighted in the Inquiry Report (pages 45 & 46).

In the circumstances, it is considered prudent to revoke the previous decision and have the matter reconsidered, taking into account, the comments put forward in the Inquiry Report and also those made by the Ombudsman in the past.

Because of the rigid wording of Council's decision of the 18th March 1997, the resolution should be revoked and be the subject of a separate decision. Accordingly, Commissioner Donaldson submitted the revocation notice in accordance with the Local Government Act and Regulations requirements.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Dependent upon outcome of Item 13.4.

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

Nil

13.4 (OCM2_5_1999) - OMBUDSMAN'S REPORT - MR G.N. GRLJUSICH, LOT 17 HAMILTON ROAD, SPEARWOOD (92091) (DMG)

RECOMMENDATION

That Council:

- (1) informs the Ombudsman that, while it reiterates its position that it does not consider that it has acted improperly in relation to the rezoning of Lot 17 Hamilton Road, it is prepared to make a "Without Prejudice" payment of \$4,000 to Mr G.N. Grljusich for out of pocket expenses, in line with the Ombudsman's recommendation and after consideration of the comments made in the Inquiry into the City of Cockburn Report on this matter; and
- (2) transfer the sum of \$4,000 from Account No.110428 (Swearing In Function - \$3,000) and Account No.110423 (Liquor - \$1,000_ and the budget be amended accordingly.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Refer to Item 13.3 and the attachments to the Agenda relative to this item.

Submission

N/A

Report

In view of the findings of the Inquiry Report, the Ombudsman wishes Council to reconsider its position on this matter. Should Council have decided to revoke its decision of the 18th March 1999 as a result of the previous item 13.3, then it is appropriate for this reconsideration to take place in view of the findings of the Report of the Inquiry into the City of Cockburn.

The Report findings emphasise that Council's decision gave little or no regard to the Ombudsman's recommendation, which

conveyed an image of inflexibility in the Council decision making process.

Notwithstanding this opinion, the Council decision in question, was made in defence of the propriety of the Council at that time, which appeared to be the focus of the Ombudsman's attention in his final analysis. Accordingly, Council's decision was as much about defending its own integrity as it was about not believing it should pay expenses incurred by Mr G. Grljusich in his pursuit against Council's original decision relative to the rezoning of Lot 17 Hamilton Road.

However, in considering that both the Ombudsman and Inquiry Reports perceive the actions of Council to be inappropriate in this instance, the opportunity to reconsider the matter is timely.

While it is considered a suitable gesture to offer the sum of \$4,000 to Mr Grljusich as recommended by the Ombudsman, for his out of pocket expenses incurred in the past, it should be stipulated that this is made on a "Without Prejudice" basis and that it represents an acceptance of the view held by the Ombudsman as an independent arbiter.

However, the opportunity should also be taken to advise the Ombudsman, that reference to the decision of Council as being "improper", was not the case as the decision had legal standing and was not considered the result of undue influence.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Funds of \$4,000 to be transferred from Account 110428 (Swearing In Function - \$3000) and Account 110423 (Liquor - \$1000) and the budget to be amended accordingly.

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

Nil

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (OCM2_5_1999) - PROPOSED CLOSURE OF PEDESTRIAN ACCESSWAY - BETWEEN LESSING PLACE AND LITTLE RUSH CLOSE, SOUTH LAKE (450502) (PT) (EAST) (MAP 14) (ATTACH)

RECOMMENDATION

That Council:

- (1) seek the assistance of the Department of Land Administration to close the pedestrian accessway from Lessing Place to Little Rush Close, South Lake;
- (2) request DOLA to seek a valuation taking into account the cost of any service relocation;
- (3) upon receipt of the above valuation, adjoining residents be requested to advise if they are prepared to purchase the land;
- (4) request DOLA to finalise closure procedures, subject to the adjacent owners agreement to purchase the land;
- (5) in the event that the adjacent owners are not prepared to purchase the land, the accessway will remain open.

COUNCIL DECISION

Background

Council received several letters from residents requesting Council to investigate the closure of the walkway. These residents lived at properties that were directly adjoining the walkway.

The main grounds for this closure stem from the increasing incidence of theft, vandalism, drug use and noise pollution emanating from the walkway.

Submission

A strong response was received from residents in the vicinity of the accessway. There was a number of letters both for and

against the closure of the walkway. Refer to the Schedule of Submissions in Agenda Attachments.

Telstra has plant in the vicinity of the walkway and raises an objection to the proposal. The objection will be withdrawn where a 3m easement is created over their network in the vicinity of the proposal.

The Water Corporation also raises an objection as an existing water main is located within the closure. The main can be cut, capped and the reticulation system modified, relocated at a cost of \$1,315 (valid for three months from 3 May 1999) not including the cost of associated restoration works (repair to footpaths, paving disturbed during the works).

Letters received from the other major Government Departments that provide services to the area advise that they have no objections to the proposal.

Report

The proposed closure was advertised by way of letters to the householders in the catchment area of the accessway.

In total five responses (3 for and 2 against) were received from residents. This was in addition to the original letters that were sent in by the residents that adjoin the walkway. Refer to the Schedule of Submissions in Agenda Attachments.

The people who live adjacent to the accessway cite problems of anti-social behaviour, rocks being thrown over the fence, break-ins, used syringes being disposed of on the pathway and vandalism.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.2 (OCM2_5_1999) - PROPOSED CLOSURE OF PEDESTRIAN ACCESSWAY - BETWEEN BICKFORD PLACE AND CASSIO PLACE, HAMILTON HILL (450396) (PT) (WEST) (MAP 7) (ATTACH)

RECOMMENDATION

That Council resolve to:

- (1) seek the assistance of the Department of Land Administration to close the pedestrian accessway from Bickford Place to Casio Place, Hamilton Hill;
- (2) request DOLA to seek a valuation taking into account the cost of any service relocation;
- (3) upon receipt of the above valuation, adjoining residents be requested to advise if they are prepared to purchase the land;
- (4) subject to the adjacent owners agreement to purchase the land, Council request DOLA to finalise closure procedures;
- (5) in the event that the adjacent owners are not prepared to purchase the land, the accessway will remain open.

COUNCIL DECISION

Background

A request was received by Council to close the walkway on 4 February 1999 and 8 March 1999 by an adjoining resident to the walkway who resided on Bickford Place.

The main grounds for this closure stem from the increasing incidence of theft, vandalism, drug use and noise pollution emanating from the walkway.

Submission

A weak response was received from residents in the vicinity of the accessway.

In total two responses were received by residents who used the pathway.

The first was received from an elderly lady who cited the need for the accessway for getting to the bus stop, shops and Cockburn Medical centre. She stated that she would be disadvantaged by any additional walking distance because she was in a poor state of health and without a vehicle.

Another resident phoned in to say that he supported the closure of the pathway.

Letters received from the major Government Departments that provide services to the area advise that they have no objections to the proposal.

Report

The proposed closure was advertised by way of letters to the householders in the catchment area of the accessway. The weak response could indicate that the pathway is not being utilised or is not required by many of the surrounding residents.

In total two responses (1 for and 1 against) were received from residents.

Problems of anti-social behaviour, rocks being thrown over the fence, break-ins, used syringes being disposed of on the pathway and vandalism have been experienced, which could be solved by closing the walkway.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

- 14.3 (OCM2_5_1999) - REQUEST FOR VARIATION TO WINDOW AREA - LOT 75 ANITRA COURT, COOGEE - OWNER/APPLICANT: O & R M McDERMOTT (3300094) (CP) (COASTAL) (MAP 15.12)**

RECOMMENDATION

That Council resolve to approve the proposed increase in size of the living room window located on the southern side at Lot 75 Anitra Court,

Coogee by 200mm in width subject to amended plans being submitted and approved to Council's Building Department.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	R15 - Residential
LAND USE:	Single Residential	
LOT SIZE:	753m ²	
AREA:	N/A	
USE CLASS:	N/A	

On the 17th April 1998 a building licence application was submitted for a proposed two storey brick and colourbond residence at Lot 75 Anitra Court, Coogee. The application included a request for a setback variation to a section of the southern side boundary.

The application proposed to locate a major opening (window) to the southern wall of the first floor living room. The variation sought was for a side setback of 2.48 metres in lieu of 3.3 metres as required under Figure 3 of the Residential Planning Codes. As per Clause 1.5.10 of the "R-Codes" the adjoining property owner was advised of the proposed variation who agreed to the variation and endorsed the plans accordingly.

The setback variation was considered to have no significant adverse effects on the amenity of the adjoining property and consistent with the objectives of the Residential Planning Codes. Subsequently on the 23rd April 1988 the building application was approved in accordance with the submitted plans.

Submission

On the 27th April 1999 a submission from the owner of Lot 75 Anitra Court, Coogee was received seeking determination of a request to increase the size of the major opening window located to the first floor living room. The owner seeks to increase the window area from 2.63 square metres to 2.94 square metres by increasing the width of the window from 1700mm to 1900mm.

In accordance with Clause 1.5.10 of the "R-Codes" the adjoining property owner was advised of the proposed variation and afforded time to comment. On the 5th May 1999 the adjoining property owner at Lot 76 Anitra Court, Coogee submitted an objection to the proposed variation.

No reasons supporting the objection were provided by the adjoining property owner.

Report

When considering the increase in area of the window the major issue to be determined is whether the amenity of the adjoining property is significantly affected.

A site inspection carried out on the 6th May 1999 revealed the residence at Lot 75 Anitra Court is currently under construction. Observation from the first floor living room window established the view to the adjoining property was across the front yard and balcony and no intrusion into private open space areas.

The effect on the amenity of the adjoining property is deemed to be negligible as the additional increase in window size is only slightly larger than which currently exists and previously supported by the adjoining property owner.

In view of the observations and comments it is considered the increase in window size by 200mm in width is minor and would not impose any significant adverse effect on the amenity of the adjoining property. Accordingly it is recommended that the proposed increase in window size be approved subject to amended plans being submitted.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil.

14.4 (OCM2_5_1999) - PROPOSED AMENDMENT NO. 191 - DISTRICT ZONING SCHEME NO. 2 - ADOPTION OF POLICIES (92191) (SOS) (ATTACH)

RECOMMENDATION

That Council:

- (1) to adopt the following modification to Amendment No. 191:
 1. Addition of a provision relating to the rescission of a Policy;
11.6 Rescission of a Policy
 - 11.6.1.1 A Clause 11 Policy may be rescinded by:-
 - a) the preparation or final adoption of a new Policy pursuant to Clause 11.1 specifically worded to supersede an existing Policy; or
 - b) publication of a formal notice of rescission by the Council once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.
- (2) advise the Western Australian Planning Commission that there were no submissions on the Amendment;
- (3) in anticipation of the Hon Minister's advice that final approval will be granted, the modified documents be signed, sealed and forwarded to the Western Australian Planning Commission.

COUNCIL DECISION

Background

Council, at its meeting held on 18 August 1998, resolved to adopt an Amendment to District Zoning Scheme No.2 to introduce provisions relating to procedures for the preparation and amendment of policies. (Min – SPC 8/98 – 12.2)

The Western Australian Planning Commission replied suggesting several minor changes prior to the Amendment being formally assessed. Council subsequently adopted a modified amendment at its meeting held on 15 December 1998 (Min - SPC 12/98-12.2)

The Commission, subject to one condition, granted consent to advertise Amendment No.191 on 26 February 1999. Details of the Amendment are included in the Attachments.

Submission

Advertising of Amendment No.191 concluded on 20 April 1999. No submissions were received.

The Commission, when granting consent to advertise, requested Council consider the addition of a provision relating to procedures for rescission of a policy.

Report

The purpose of this Amendment is to incorporate into the Scheme a framework for the preparation and amendment of planning policies. In effect this will add status and enforceability to policies and enable public input into the policy making/amendment process.

In accordance with the request of the Commission to include a rescission provision, the following text should be added to the Amendment:

11.6 Rescission of a Policy

11.6.1.2 A Clause 11 Policy may be rescinded by:-

- a) the preparation or final adoption of a new Policy pursuant to Clause 11.1 specifically worded to supersede an existing Policy; or*
- b) publication of a formal notice of rescission by the Council once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.*

The addition reflects the provisions of the Commission's proposed Model Scheme Text. Final adoption is recommended.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.5 (OCM2_5_1999) - PROPOSED AMENDMENT NO. 210 - YANGEBUP OWNER DEVELOPMENT AREA - STOCK ROAD / SPEARWOOD AVENUE, YANGEBUP - OWNER: VARIOUS (45093) (92210) (SR) (MAP 9) (ATTACH)

RECOMMENDATION		
That Council:		
(1) adopt the following amendment:-		
TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME CITY OF COCKBURN – DISTRICT ZONING SCHEME NO.2		
AMENDMENT NO. 210		
Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended) amend the above Town Planning Scheme by:-		
1. Inserting in the Scheme Text the following addition to the Tenth Schedule:		
Ref No.	Scheme Name	Requirements
ODA 4	Yangebup West	All landowners within ODA 4 shall make a proportional contribution to Beeliar Drive between Stock Road and Spearwood Avenue. The contribution shall include the following:-

		<ul style="list-style-type: none"> • Land requirements for the Important Regional Road reserve between Watson Road and Spearwood Avenue; • Land requirements for an average 45 metre wide road reserve between Watson Road and Stock Road; • Full earth works; • Construction of a two lane unkerbed road; • Dual use path (one side only); • Drainage crossings; • Cost to administer cost sharing arrangements including preliminary engineering design and costings, valuations, annual reviews and audits and administration costs; • Costs for the repayment of any loans raised by the local authority for the purchase of any land for Beeliar Drive or for any of the abovementioned works.
ODA 5	Yangebup East	<p>All landowners within ODA 5 shall make a proportional contribution to Beeliar Drive between Stock Road and Spearwood Avenue. The contribution shall include the following:-</p> <ul style="list-style-type: none"> • Land requirements for the Important Regional Road reserve between Watson Road and Spearwood Avenue; • Land requirements for an average 45 metre wide road reserve between Watson Road and Stock Road; • Full earth works; • Construction of a two lane unkerbed road; • Dual use path (one side only); • Pedestrian Overpass; • Drainage; • Cost to administer cost sharing

		<p>arrangements including preliminary engineering design and costings, valuations, annual reviews and audits and administration costs;</p> <ul style="list-style-type: none"> • Costs for the repayment of any loans raised by the local authority for the purchase of any land for Beeliar Drive or for any of the abovementioned works.
<p>2. Amending the Scheme Map to include the Owner Development Areas.</p> <p>Dated this _____ day of _____ 1999</p> <p style="text-align: right;">CHIEF EXECUTIVE OFFICER</p> <p>(2) sign the amending documents, and forward a copy to:-</p> <ol style="list-style-type: none"> 1. The Environmental Protection Authority in accordance with Section 7A(1) of the Act; and 2. The Western Australian Planning Commission for information; <p>(3) forward a copy of the signed documents to the Western Australian Planning Commission with a request to advertise the amendment, following receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act; and</p> <p>(4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for further consideration following formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act.</p>		

COUNCIL DECISION

Background

In February 1997 the Western Australian Planning Commission issued guidelines for developers contributions towards infrastructure costs (Planning Bulletin No.18). The purpose of the Bulletin was to set out developer, state and local government obligations in respect to the provision of common infrastructure when developing new areas. It also aimed to ensure there was a constant approach to the provision of infrastructure, that the costs were distributed fairly and equitably between all owners and, that the processes were transparent and accountable.

The Bulletin also notes that in areas where there is fragmented land ownership the land required for district distributor roads and the initial stage of road construction is generally funded by the equitable contributions from all landowners.

On 15 September 1998 the Council resolved to amend its District Zoning Scheme No. 2 inserting a new part titled Owner Development Areas (ODA) establishing the provision for the cost sharing arrangements relating to the planning, design and installation of common infrastructure between owners (Amendment No. 193). The purpose of this report is to introduce into the Tenth Schedule an Owner Development Area listing the infrastructure works requiring contributions from the owners within the Yangebup Urban Development Area.

Submission

The purpose of this amendment is to identify the Yangebup ODA and the works requiring a contribution from the owners. The ODA involves land in the Yangebup locality shown on the Scheme Amendment Map and requires contributions from the owners towards the following works for Beeliar Drive between Stock Road and Spearwood Avenue: -

Land
 Full earthworks
 Construction of a two lane unkerbed road
 Dual use path (one side only)
 Pedestrian crossings where required
 Drainage

These items are specifically referred to in the Tenth Schedule.

The aforementioned works are consistent with the advice in Planning Bulletin No.18 and conditions of subdivision previously imposed by the WAPC on existing subdivisions within Cells 8, 9 and 10. (ODA 4 and 5)

The requirement for the contribution will be imposed as a condition of the subdivision and/ or development and payable in accordance with clause 12.4.1 of the Scheme as contained in the Amendment 193. Amendment No. 193 aims to:

- Provide for contribution to only such common infrastructure costs as the Council considers are fair and reasonable for landowners to contribute to in the relevant Owner Development Area;
- Matters requiring land contribution, such as public open space, shall be treated as common infrastructure costs with any necessary adjustments to establish, where appropriate, a money equivalent;
- Require contribution by landowners only to such proportion of the costs of any common infrastructure item as the Council considers to be fair and reasonable for that Owner Development Area;
- Provide a method of apportionment of common infrastructure costs which the Council considers to be fair and reasonable for the Owner Development Area;
- Allow for contributions to items in the form of land and / or money and for adjustments in land or money or both in cases where an owner contributes or is required to contribute more than that owner's equitable proportion for any purpose;
- The cost contribution of any landowner shall be based upon the proportion that the area of that landowner's land bears to the total area of land within the Owner Development Area;
- In calculating both the area of a landowner's land and the total area of land in an Owner Development Area, the area provided or required in that Scheme shall exclude:-
 - i) Roads designed under the Metropolitan Region Scheme as controlled access highways, other major highways and important regional roads; and
 - ii) Government primary and secondary schools;
- Common infrastructure costs shall be based on amounts expended, but where no expenditure has occurred, shall be based on best and latest estimates obtained by the Council.

The contributions shown on the attached schedule have been calculated on the basis of the gross subdividable areas, that is the title area less the above-mentioned major road and school areas to be excluded.

In the case of the Yangebup ODA, a weighting has been applied to that portion of Lot 621 (owned by the City of Cockburn) designated for retail and related commercial uses. This reflects the higher traffic generation for such uses compared to residential use based upon a Traffic Study by Uloth and Associates.

The Yangebup ODA has been divided into 2 sub-areas, namely, ODA 4 comprising Cells 6 and 8 west of the railway and ODA 5 comprising Cells 9 and 10 east of the railway. This reflects the requirement for owners within Cells 9 and 10 to contribute to the construction of a pedestrian overpass required in accordance with the subdivision approval for this area. This is in order to provide residents in Cell 9 with safe and convenient access to the proposed major public open space area in Cell 10.

Detailed cost estimates for the works outlined will be provided to owners and the Commission at the earliest opportunity.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The total estimated cost of the land and works for Beeliar Drive is in the order of \$6.0 Million. Funds of \$3.5 Million have been expended to date on land acquisition, the construction of the railway bridge and earthworks.

The proposed amendment provides for a substantial portion of Council funds to be reimbursed over time as staged subdivision occurs and subdivider contributions are made in accordance with the Schedule applicable to the Amendment.

Provision for the prefunding of works for the construction of Beeliar Drive will need to be made in future.

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

Nil.

14.6 (OCM2_5_1999) - FINAL ADOPTION OF AMENDMENT NO.189 - REZONE PORTIONS OF GATEWAYS SHOPPING CENTRE TO PUBLIC PURPOSE, COMMUNITY PURPOSE & COMMERCIAL - PT LOTS 12 AND 1 NORTH LAKE ROAD, LOT 223 & PT LOT 232 BEENYUP ROAD, SUCCESS - OWNER: GOLD ESTATES (92189) (MT) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the recommendations in the Schedule of Submissions;
- (2) adopt the Amendment with the modifications to the resolution as instructed by the WAPC;
- (3) in anticipation of the Honourable Minister for Planning's advice that Final Approval will be granted, the Amendment documents be signed and sealed, and forwarded to the Western Australian Planning Commission.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Commerical, Rural & Public Purpose
LAND USE:	Shopping Centre	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

Council resolved to initiate the amendment to its Scheme on 18 August 1998. The WAPC instructed Council to advertise the amendment by letter dated 3 March 1999. The advertising period closed on 16 April 1999.

The intent of the amendment is to rationalise the zoning following previous development and subdivision approvals for the Gateways Shopping Centre site. Portions of the lot are to be rezoned to facilitate a local community use site and a bus lane along the Kwinana Freeway. Additional land is to be rezoned "Commercial" along the southern boundary of the existing lot in line with previous amalgamation and resubdivision of the Shopping Centre site.

Submission

One submission was received during the advertising period. It was from the Water Corporation and contained general advice. A Schedule of Submissions is contained in the Agenda Attachments.

Report

The WAPC, in their letter dated 3 March 1999, instructed a number of minor modifications to be made to the text and maps in the scheme documents (see Agenda Attachments). The modifications to the text have been made in the documents. They constitute minor changes to the wording of the resolution and do not alter the intent of the amendment. No modifications to the amendment maps were made. Following discussions between Council officers and officers of the WAPC it was agreed the original amendment maps were correct. Given there were no objections to the Amendment, it is recommended that the Amendment be forwarded to the Minister with the recommendation that final approval be granted.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

- 14.7 (OCM2_5_1999) - DUPLEX DEVELOPMENT REQUEST - PACKHAM URBAN DEVELOPMENT AREA - LOT 101, 2 BACICH MEWS, MUNSTER - OWNER/APPLICANT: M N PESICH AND K M EVERY (3317230) (SR) (COASTAL) (MAP 9) (ATTACH)**

RECOMMENDATION

That Council reiterate the advice contained in the letter dated 9 March 1999, being that Council cannot approve a duplex development on Lot 101 Bacich Mews, due to the restrictions imposed by Clause 8.11 of Council's District Zoning Scheme No 2.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Residential R30
LAND USE:	Vacant	
LOT SIZE:	939m2	
AREA:		
USE CLASS:	"X"	

Submission

The owner of Lot 101 Bacich Mews, Munster is aggrieved that a duplex cannot be developed on the lot as outlined in the exchanges of correspondence dating back to November 1995 attached to the Agenda. They have requested Council's review of the advice given to them by staff that a duplex development cannot be approved on the lot.

The lot was purchased in 1993, apparently with an expectation of duplex development.

Lot 101, being a corner lot, is physically suited to duplex development by virtue of its size and extensive street frontage.

Report

The land is zoned "Residential R30", however, Clause 8.11 restricts the extent of duplex development in the Packham Urban Development Area to not more than 25 percent of the lots shown on the relevant Diagram of Survey. In the case of Lot 101 Bacich Mews, there were 17 lots created on the Diagram of Survey, four (4) of which were developed as duplexes. There are eight (8) lots which by virtue of their lot size would otherwise be suitable for duplex development under the R30 zoning, ie, if not for the restriction of Clause 8.11.

Building Licences for Duplexes were approved in the Bacich Mews subdivision in 1993 on a "first in, first served" basis and the quota of four lots was soon reached. The owners of Lot 101 have consequently found that a duplex cannot now be approved on their lot.

In most subsequent stages of the Packham subdivision, Restrictive Covenants have been imposed by Urban Focus at the City of Cockburn's request to avoid a repetition of this type of situation. The Covenants are imposed on lots in excess of the 25 percent quota which would otherwise be suitable for duplex development by virtue of lot size under the R30 code. This practice has improved certainty for lot purchasers and reduced administrative difficulties for Council staff.

A sales plan obtained for the subdivision does not indicate any significant price difference between "duplex" lots and single residential lots as shown on the attachment. Lot 101 is not listed on the Sales Plan, however it is reasonable to assume that no major "premium" over a single residential lot price would have been paid at the time.

Council has on two previous occasions supported Amendments to its Scheme for lots in the Packham Urban Development Area in order to override the provisions of Clause 8.11 to permit duplex development on lots in similar circumstances. It is not recommended that the precedent of ad hoc Amendments be continued in this case.

In the event that Council wished to allow duplex development on the lot, an "Additional Use" amendment could be initiated for Lot 101 or, alternatively, consideration be given to deleting Clause 8.11 in its entirety. It would be necessary to further examine the wider implications of any deletion of this Clause prior to a Recommendation to this effect being made.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.8 (OCM2_5_1999) - APPEAL OF COUNCIL CONDITIONS OF APPROVAL FOR SAND EXTRACTION - LOT 130 CNR FRASER AND JANDAKOT ROADS, BANJUP - OWNER: VINCENT NOMINEES - APPLICANT: NLG SAND SUPPLIES (5513178) (CC) (EAST) (MAP 19) (ATTACH)

RECOMMENDATION

That Council:

- (1) not support the suggested outcome by the Office of the Minister for Planning (Planning Appeals) for the Appeal of Conditions 13 and 14 of the Council's Development Approval of the 17 November 1998, and advise the Office of the Minister for Planning (Planning Appeals) accordingly and;
- (2) further advise the Office of the Minister for Planning (Planning Appeals) that in respect to the amount of the bond/guarantee required in Condition 14, Council would be willing to accept an amount of \$46,500, which is the sum of the rate (\$3,000) for sand extraction indicated in City of Cockburn Local Laws multiplied by the number of hectares approved for excavation under Council's Development Approval of 17 November 1998.

COUNCIL DECISION

Background

ZONING:	MRS:	Rural- Water Protection
	DZS:	Rural (Proposed Resource-zone Amendment 202
LAND USE:	Extractive Industries	
LOT SIZE:	41 ha	
AREA:		
USE CLASS:	SA use majority of Council	

At its meeting of 17 November 1998 Council resolved to conditionally approve an extension to the sand excavation operation on Lot 130 corner Jandakot and Fraser Roads, Banjup. **See Agenda Attachments for Location Plan**

An appeal has been lodged with the Minister for Planning in respect to Conditions 13 and 14 of the Approval. The conditions are as follows:

- '13) *The owner(s) of the land entering into an agreement with the City covenanting to excavate and rehabilitate the land in accordance with this approval and conditions. **Such Deed shall create a caveatable interest in the land in favour of the City** and allow the City powers to effect rehabilitation of the land in the event of default by the operator, using the existing bonds and bond/guarantee held in trust by the City, by seven (7) days notice in writing and the deed shall contain such matters as are relevant to the conditions herein mentioned. The Deed is to be prepared by the City's solicitors at the cost of the applicant.*
- 14) ***A bank guarantee or bond for the rehabilitation of the site in a form acceptable to and from a bank approved by the City, in the sum of \$74,000 to be lodged with the City. If demand is made under the guarantee and the money paid by the guarantor to the City, the applicant shall, within 7 working days of such payment by the guarantor restore the amount of the guarantee to \$74,000.***

A mediation hearing was held at Council Offices attended by the landowner/operator (Vincent Nominees/NLG Sand Supplies), consultants (Lindsay Stevens) on behalf of the landowner/operator, Officers of Council's Planning and Environmental Departments and Officers of the Appeals Office.

Report

The Planning Appeals Office has prepared a report on the appeal and suggested modified conditions for Council's and the appellant's consideration. **See Agenda Attachment for details of Report.**

The Planning Appeals Office suggests Condition 13 be modified to the extent that the requirement for the lodgement of a caveat over the site be deleted.

NLG objects to the lodgement of a caveat over the site the grounds that: the City has not required a caveat in the past; there are no caveats on its other sites in the metro-region; the City has had no cause to complain about NLG's operation in the past and; NLG is the owner/operator of the site.

The caveat is an essential part of the deed of agreement for rehabilitation and excavation. The caveat is the mechanism to transfer rehabilitation requirements onto any successive owner, especially in instances where approvals have lapsed or excavation is completed. An agreement without the caveat would not be binding any successive landowner, and may allow owner/operators to avoid rehabilitation requirements. Furthermore, Council has required caveats on sites of other owner/operators.

In view of the above, it is considered that Council should not support the modified Condition 13, as suggested by the Appeals Office.

In respect to Condition 14, the Appeals Office has suggested a reduced rehabilitation bond of \$20,000, on the ground that areas excavated under previous approvals should not be included in the calculation. Council current holds a bond of \$11,000 for land excavated under previous approvals.

Local Laws indicate that bond monies should be calculated at a rate of \$3,000 per hectare of land to be excavated annually. The Planning Department has applied this rate to the entire area excavated under previous approvals and to be excavated under the current approval. The holding of bond monies only for areas to be excavated annually is unwieldy given the often-sporadic nature of excavation and inability to gauge the success of rehabilitation in the short term.

If bond money were calculated only on the land to be excavated under the current approval, then \$46,500 would be payable as bond. The recommended sum of \$20,000 is well short of even this figure.

It is considered that Council should not support the revised sum for the guarantee/bond for the site. Council however, should advise the Appeals Office that it would be willing to accept a revised sum of \$46,500 as a guarantee/bond for rehabilitation of the entire site.

Strategic Plan/Policy Implications

PD 21 Extractive Industries
Proposed Amendment 186
Extractive City of Cockburn Local Laws-Extractive Industries

Budget/Financial Implications

N/A

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

Nil

14.9 (OCM2_5_1999) - PROPOSED NEW VEHICLE STORAGE YARD - LOT 77 JANDAKOT ROAD, JANDAKOT - OWNER: SCHAEFFER CORPORATION - APPLICANT KOLT SZ SMITH & PARTNERS (5513079) (CC) (EAST) (MAP 19) (ATTACH)

RECOMMENDATION

That Council:

- (1) refuse the proposal to store new vehicles at Lot 77 Jandakot Road, Jandakot for the following reasons:
 1. The proposed use is considered to be of a commercial/industrial character by reason of traffic generation, nature of product, visual appearance and scale of development and is inappropriate to locate in the Rural zone of the Council's District Zoning Scheme No. 2. Approval to the proposal would be contrary to orderly and proper planning in the Rural zone.
 2. The proposal is contrary to Council Policy PD 43 (Rural – Water Protection Zone (MRS) Jandakot) and initiatives of Council to incorporate land use requirements of the Western Australian Planning Commission's Statement of Planning Policy No. 6- Jandakot Ground Water Protection Zone, in the City's District Zoning Scheme No. 2 via Amendment 202.
 3. Approval to the proposal would result in increased potential for ground water contamination in a Priority 2 Ground Water Resource Protection Area.
 4. The proposal is contrary to the objectives of the Western Australian Planning Commission's Statement of Planning Policy No. 6- Jandakot Ground Water Protection Zone, and there is a general presumption against approval to use not listed in the Policy.
 5. The proposal would have a detrimental effect on the rural amenity of nearby and adjoining landowners.
 6. Approval to the proposal would create an undesirable precedent for the intrusion of other commercial/industrial

- type use into the Rural Zone, which would collectively jeopardise rural amenity.
- (2) issue a MRS Form 2 Notice of Refusal and;
 - (3) advise referral authorities and those that made submissions of the Council's decision.

COUNCIL DECISION

Background

ZONING:	MRS:	Rural-Groundwater Protection
	DZS:	Rural (proposed Resource Zone Amendment 198)
LAND USE:	Paving block factory & sand excavation	
LOT SIZE:	52 Hectares	
AREA:		
USE CLASS:	Use not Listed	

There are two approved uses on Lot 77.

Sand excavation has occurred since 1981 and the operator (ROCLA) has advised that excavation and rehabilitation are scheduled for completion in the middle of this year.

A portion of site has the additional use of 'Mineral Processing' and is occupied by the Urban Stone brick paving factory. Consolidation of this use has occurred with approvals for various factory extensions.

Lot 77 is bounded by the Jandakot Airport site to the north, 2 hectare Special Rural lots to the east and west and larger Rural lots south of Jandakot Road. The Glen Iris residential/golf estate is nearby to the west, and the site enjoys ready access to the Kwinana Freeway via Berrigan Drive.

Submission

Application has been made to use a 10 hectare portion of the site as a new vehicle storage yard to accommodate up to 5,000 vehicles. See Agenda Attachments for Site Plan.

The physical and operation aspects of the proposal are:

- 10 hectares of fenced hard stand;
- office (250m²) and store (300m²) buildings;
- an internal accessway with staff parking area (no additional access to Jandakot Road);
- security lighting and shade cloth carport structures;
- shipment of 200–300 vehicles per fortnight with 50% delivered by transporter and 50% driven to the site;
- Approximately 20 employees;
- no refuelling, detailing or repairs on new vehicles and;
- normal operating hours with 10 outgoing transport movements per day.

The proposal represents the amalgamation of 3 existing storage yards in O'Connor, Kewdale and Fremantle.

Report

Although currently Rural in TPS No. 2, Council has resolved to rezone existing Rural and Special Rural land in Jandakot and Banjup (including Lot 77) to 'Resource' zone, via Amendment 202, to bring the Scheme in line with the Rural-Water Protection zone of the MRS, and the Jandakot Ground Water Protection Policy. Amendment 198 is pending the Department of Environmental Protection's consideration of environmental assessment and the Commission's consent to advertise.

Council's solicitors have provided written advice that the use is best considered as 'a use not listed' under TPS No.2. Similarly, the use would also be a use not listed under Amendment 202. The advice is attached together with a copy of the request.

The Jandakot Ground Water Protection Policy however, indicates that uses not listed should generally not be allowed in the Rural-Water Protection zone.

Council has adopted a Policy (PD 43) to cover development in the Rural Water Protection Zone. The Policy states that Council shall have due regard to the advice of the Waters and Rivers Commission

The Water and Rivers Commission have advised that the site is located in Priority 2 area of the Jandakot Underground Water Pollution Control Area. The Commission does not support the proposal on the grounds that it creates potential for ground water contamination from oil and petrol leaks, waste water from

additional effluent disposal, other solvents and hydrocarbons, and from a general intensification of use.

The site is affected by noise (30 max. and 25 to 30 ANEF noise contour) from Jandakot Airport. Council Policy PD 3 'Jandakot Airport' indicates that residential development in areas exceeding the 20 ANEF noise contour is permitted subject to conditions or is unacceptable. In this respect, it is considered unlikely that Council's Planning Department would support subdivision of the site for special rural purposes, which would otherwise be the highest use for the land.

Site inspection revealed that some views to the proposal area would be available in places from Jandakot Road. Views from adjacent Special Rural lots may only be available from site boundaries closest to the site.

The development would result in additional traffic movements on Berrigan Drive and the western most portion of Jandakot Road. It is likely that the shipments of driven vehicles (up to 150 at one time) and transporters may cause instances of localised traffic congestion on Berrigan Drive, especially at the intersection (roundabout) with Jandakot Road. The additional movements would be readily identifiable as non-regular traffic and easily associated with the site.

The proposed use area is designated for rehabilitation in the approved excavation and rehabilitation plan.

Jandakot Airport Holdings have advised of requirements in respect to lighting and structures to ensure the proposal does not interfere with the operation of the airport.

7 submissions were received from nearby landowners.

5 object generally on the following grounds:
proposed use in industrial/commercial in nature;
increase in traffic and hazards from transporter vehicles;
proposed use would impact negatively on rural lifestyle and amenity;
potential for light spill, crime, ground water pollution.

1 submission of conditional support was received and another recommending restriction of the proposal. See Agenda Attachments for further details of submissions.

There are planning considerations for and against approval of the proposal.

For

Development of the site for Special Rural type purposes is considered unlikely given the existence of the Urban Stone factory, aircraft noise and absence of established vegetation. Allowing for an alternative use may therefore be appropriate.

Notwithstanding the comments of Waters and Rivers Commission, hard-standing of the proposed use area and the fact that new cars are unlikely to leak oil or petrol indicates that the potential for ground water contamination is limited. Conditions could be imposed on an approval to require capture and treatment of stormwater run off prior to discharge.

Site characteristics including the site's low elevation relative to adjoining Special Rural lots and Jandakot Road, and the vegetated buffers indicates that the proposed activity would be screened from external views. If any views were present then conditions for additional screen planting could also be imposed on a development approval.

Against

The mass storage of new vehicles is not considered a rural use. Indeed, the proposed use seeks to relocate from Industrial zones in O'Connor, Fremantle and Kewdale to the Rural zone in Jandakot on the grounds of economic rationalisation.

Notwithstanding the constraints to developing the site with Special Rural lots, the Ground Water Protection Policy indicates a variety of allowable and discretionary uses, which could be developed on site.

The proposal is contrary to the objectives of the Ground Water Protection Policy, which seeks to protect ground water for public supply and ecosystem maintenance, represents a contamination risk and is not supported by the Waters and Rivers Commission. Measures to attenuate ground water contamination may not safeguard against mishaps and build-up of contaminants over time.

Additional traffic movements on Berrigan Drive and portion of Jandakot Road would be readily identifiable as non-local traffic, associated with site and may cause instances of traffic congestion and inconvenience at the roundabout at Berrigan Drive and Jandakot Road.

There is local opposition to the proposal. The concerns expressed by nearby landowners especially, that the proposal

represents an intrusion of an industrial/commercial use in the Rural zone is valid.

Planning considerations against the proposal out weigh those in favour, accordingly, Council should refuse the proposal.

Strategic Plan/Policy Implications

PD 3 Jandakot Airport
PD 43 Rural Protection Zone (MRS) Jandakot

Budget/Financial Implications

N/A

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

Nil

14.10 (OCM2_5_1999) - PACKHAM URBAN DEVELOPMENT AREA INVESTIGATION REPORT - DEPARTMENT OF LOCAL GOVERNMENT (9235) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the Report and note the findings and recommendations;
- (2) implement the Report recommendations by:-
 1. finalising the 'book entry' transfer of interest to reimburse \$222,934 to the Council's Packham Section 20C Account;
 2. reaffirming the Council's commitment to cost sharing infrastructure within the Packham Urban Development Area as provided for in Council Policy PD 11 - "Packham Urban Development Area";
 3. re-adopting the Packham Urban Development Area Proposals Structure Plan dated July 1994, (as amended) as a Consolidated Plan updated to May 1999.
 4. referring the adopted Structure Plan to the Western Australian Planning Commission for re-approval;
- (3) require Council's Development Services Department to endorse

all adopted structure plans with a stamp signed by the Director - Planning & Development and dated and when an adopted Structure Plan is amended it be stamped superseded, signed and dated and the amended plan adopted by the Council be signed and dated accordingly.

COUNCIL DECISION

Background

The Council at its meeting held on 16 February 1999 resolved as follows:-

- (1) *receive the report:*
- (2) *adopt the proposed brief as the basis of appointing a suitably qualified and experienced firm of consultants or person to undertake a review of the statutory basis, administration, operation and management of the Packham Urban Development Area;*
- (3) *formally request the Department of Local Government to review and agree to the brief and to accept responsibility for the management of the appointed consultant;*
- (4) *send a copy of the brief to selected consultants requesting a submission to undertake the work be lodged with the Chief Executive Officer by Tuesday, 9th March 1999, for the Council's consideration at its meeting of the 16th March 1999;*
- (5) *request submissions from the following selected consultants and individuals:-*
 - *Mr David Gray of Gray Lewis & Associates*
 - *Mr Gene Koltasz of Koltasz Smith & Partners*
 - *Mr Douglas Collins (retired) Ex-Deputy Commissioner of the Town Planning Department and currently member of the Ministerial Appeals Committee*
 - *Ms Cheryl Chaffer of Cheryl Chaffer and Associates, member of the PEER Review Committee (WAMA);*
- (6) *determine that, should additional monies be required to facilitate the appointment of the consultant, such funds be*

taken from the Chief Executive Officer's Consultancy Account No. 135310; and

- (7) Deputy Mayor Ostojich and the Chief Executive Officer, to be the Council representatives on the Joint Committee for the appointment and overseeing the consultant in accordance with Clause 7 of the brief, that Clr Pecotic act as Deputy in the event that Deputy Mayor Ostojich was not able to fill the position and that the Director, Planning & Development be the Chief Executive Officer's Deputy.*
- (8) That the Chief Executive Officer advise Councillors of the estimated cost prior to the appointment of the Consultants and provided that this is acceptable to the majority of Councillors, that he proceed with the appointment.*

The firm of Gray and Lewis, Town Planning Consultants were appointed to undertake the investigation on behalf of the Department of Local Government.

The investigation commenced in April 1999, and was completed in May 1999.

Submission

A copy of the Report from the Department is attached to the Agenda, and is self explanatory.

Report

It is inappropriate for the staff to comment on the report, and has been included on the Agenda for the public record and to enable the recommendations to be implemented.

The principal findings of the report based on the brief are:-

"Statutory Basis

To review all the statutory requirements, obligations and procedures associated with the adoption and implementation of the Packham Urban Development Area and identify any non-compliance."

- There is no identifiable non-compliance with statutory requirements.

"Administration

To review the administration of the collecting, holding and expenditure of cash-in-lieu monies paid to the Council by landowners under the provision of Section 20C of the Town Planning and Development Act within the Packham Urban Development Area, the purpose of which is to determine the level of compliance with the Town Planning & Development Act, the Council Scheme and Council Policy."

- All other payments received by the Council under Section 20C are held in the Trust Account. These monies are held by the Council to be used in accordance with the provisions of Section 20C of the TP&D Act. Neither Urban Focus nor any landowner who has ceded land to the Crown under Section 20A of the TP&D Act has any rights to money held in the Trust Account. In all other respects there has been compliance with the TP&D Act, the Council's District Planning Scheme No. 2, and relevant Council Policy.

"Operation

To review the operation of the Packham Urban Development Area in terms of the conditioning and the clearance of subdivisions within the area and adherence to Western Australian Planning Commission requirements, guidelines and Council policy."

- In the case of a subdivision outside a private development scheme, contributions to Public Open Space can be sought through the subdivider paying cash-in-lieu of land. The subdivider, the local government, and the WAPC must all agree to payment of cash-in-lieu. To date this has not been a problem as those subdividers outside a private development scheme who have been required to contribute Public Open Space have agreed to pay cash-in-lieu for all (Lambasa) or part (Lee) of their contribution.

Both the Lambasa and the Lee subdivisions have contributed to POS and infrastructure, consistent with the Council's Policies. It is relevant that the WAPC did not recognise the Council's Policies with respect to cost sharing for infrastructure, to the extent it has not included Conditions to be satisfied prior to completion of the subdivision.

The Peremate subdivision application was made after the adoption of Policy PD 14 (Appendix F), and the policy provisions regarding cost-sharing for infrastructure were not followed.

"Management

To review the management of the Packham Urban Development Area in respect to the owners agreement managed by Urban Focus, the method of determining the landowners interest in the equalisation schedule and determine the legality of such arrangements and clarify the roles and responsibilities in the implementation of the agreement by Urban Focus and the Council and participating and non participating landowners in the arrangement."

- As for the relationship with participating owners, they are represented by Urban Focus which is the single applicant for subdivision. Those owners have agreed on the equalisation arrangements. The Council is not a party to the contracts, and the participating owners are represented in subdivision applications by Urban Focus.

The Council's concerns should be to ensure land designated in the Structure Plan for public open space and drainage is progressively revested in the Crown. Until all of the land designated for these uses is revested, appropriate conditions should be attached to subdivision applications. This has been done by the WAPC and the Council's involvement has been limited to monitoring these conditions.

Urban Focus have suggested a claim may be made for a contribution from the cash-in-lieu payment made by the Lambasa subdivision for distribution to owners in the private development scheme in accordance with equalisation arrangements. Clearly any such payment would be outside the use of monies from the Section 20C Trust Account.

The Report draws the following conclusions:-

1. The investigation has not identified any divergence by the City of Cockburn from its statutory obligations with respect to public open space and land for drainage within the PUDA.
2. The Lambasa and Lee subdivisions were both dealt with in accordance with the Council's Policy with respect to cost sharing for infrastructure.
3. The recommendations to the WAPC on the Peremate subdivision were not in accordance with the Council's Policy with respect to cost sharing for infrastructure. The

estimated value of the off-site infrastructure was about \$35,000.00.

4. The City of Cockburn is not a party to the contractual arrangements between landowners and Urban Focus. Subdivision of land in a private development scheme with respect to public open space and drainage has been dealt with in accordance with WAPC policy.
5. The Structure Plan for the PUDA may not have been adopted pursuant to Part 8 of the City of Cockburn District Zoning Scheme No. 2. Although this is not a significant issue and much of the PUDA has already been subdivided, it may be appropriate for the Structure Plan to be adopted to provide a vehicle for future proposals in the buffer to George Weston Foods.

The Report makes the following recommendations:-

1. The Council finalise the 'book entry' transfer of interest to reimburse \$222,934.00 in the Section 20C Trust Account.
2. The Council reaffirm its commitment to cost sharing for infrastructure within the PUDA, as provided in Policy PD 14.
3. The Structure Plan for the PUDA be adopted pursuant to District Zoning Scheme No. 2.
4. This report be noted.

In relation to Recommendation 3, the Packham Urban Development Area Proposals Structure Plan was adopted by the Council and the Commission in 1989 and has been the basis of subdivision within the locality since, subject to minor amendments from time to time.

The plan was prepared by Russell Taylor and William Burrell, Town Planners, for Urban Focus (CMS) on behalf of the participating landowners.

Urban Focus have been responsible for submitting the majority of the subdivision applications in Packham over the past 10 years.

Given this it is recommended that the Council formally **re-adopt** the Structure Plan (Consolidation of amendments) but not under Part 8 of the Scheme because of the ramifications of clause 8.5.

"8.5 *Application for Adoption of Structure Plan*

Every application for adoption of a Structure Plan shall be :

- (a) in writing;*
- (b) signed by each owner of land within the Urban Development Area the subject of the Structure Plan;*
- (c) accompanied by three (3) copies of a Structure Plan to a scale between 1:2000 and 1:5000 showing :*
 - (i) all roads within the Urban Development Area;*
 - (ii) proposed public open space drainage reserves within the Urban Development Area;*
 - (iii) proposed new lot boundaries;*
 - (iv) proposed use classes designated for land within the Urban Development Area;*
 - (v) existing contours, water courses, buildings and natural vegetation;*
- (d) accompanied by copies of the duplicate Certificates of Title of each lot within the Urban Development Area which copies were obtained from the Land Titles Office not less than seven (7) days prior to the lodging of the application.*

8.6 *Determination of Application*

The Council, having regard to :

- (a) the orderly and proper planning of the Urban Development Area and the surrounding locality;*
- (b) the preservation of the amenities of the Urban Development Area and the surrounding locality;*
- (c) the zoning of the Urban Development Area; and*

- (d) *in the case of an application for the adoption of a Structure Plan for part of an Urban Development Area, the need to ensure that the Structure Plan is in co-ordination with any adopted Structure Plan for other parts of the Urban Development Area,*

may refuse to adopt a Structure Plan or may adopt a Structure Plan unconditionally or subject to such conditions as it may see fit."

Given that a significant proportion of the Packham Area has already been subdivided and developed, the Structure Plan no longer applies. Moreover, given that this is a re-adoption of a currently operating Structure Plan, Clause 8.5(a) is not applicable, 8.5(b) and (d) are deemed inappropriate because of the increased number of new residential lots from the smaller number of original lots.

Another reason for not following the process set out in Clause 8.5 and Clause 8.6, is that there is no application being considered, but simply a matter of formalising a previous decision by the Council, a circumstance not contemplated under the Scheme.

The plan will also need to be re-approved by the Commission.

Strategic Plan/Policy Implications

Council Policy PD 11 "Packham Urban Development Area" applies.

Budget/Financial Implications

The investigation cost \$6,800. This cost does not include time and resources used by Council staff in dealing with the matter over the past months.

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

Nil

14.11 (OCM2_5_1999) - SMOKING IN ENCLOSED PUBLIC PLACES (6003) (DM) (ALL) (ATTACH)

RECOMMENDATION

That Council

- (1) repeal existing policy A5.5;
- (2) adopt the attached amended policy A5.5 NO SMOKING;
- (3) adopt the attached new policy PD45 SMOKING IN ENCLOSED PUBLIC PLACES.

COUNCIL DECISION

Background

The Health (Smoking in Enclosed Public Places) Regulations 1999 were gazetted on February 19th 1999. These regulations have been introduced in response to growing community concerns over the health effects of passive smoking and strong community support for smoking restrictions in public places.

The regulations prohibit smoking in all enclosed public places from March 29th 1999 with a limited number of exemptions. Bars, cabarets and nightclubs are given limited exemptions, under certain conditions, until 1 January 2000.

Examples of public places, which, if they are enclosed, are required to comply with the regulations include shopping centres, restaurants and cafes, hotels and nightclubs, schools, clubrooms of sporting and community groups, community halls and places of worship, public transport, nursing homes and fitness, sport and recreation centres.

Report

Council's involvement with the Health (Smoking in Enclosed Public Places) Regulations 1999 is two fold.

Firstly, Council, as an owner and occupier of enclosed public places, has a responsibility to ensure that the public comply with the regulations whilst on Council premises. This will involve adequate signage being placed in such numbers and in such positions as would ensure that a sign is likely to be seen by a person at a public entrance to the place or by a person in the place or area. Council, or persons having the management or control, or otherwise being in charge of the enclosed public place also have a duty to, as far as is practical, prevent the public from smoking in restricted areas.

Secondly, Council Environmental Health Officers have a statutory responsibility to monitor premise compliance and to enforce the regulations in all enclosed public places. Environmental Health Officers are empowered to carry out inspections of premises to ensure adequacy of requirements such as signage, exemptions and ventilation and to ensure that smoking is only being carried out within permitted areas.

To effect the necessary changes caused by the regulations, policy document A5.5 NO SMOKING, which covers smoking in the workplace, required amendment. The proposed new policy now refers to a ban on smoking within Council owned enclosed public places as well as within workplaces and vehicles. Additionally, a new policy PD45 SMOKING IN ENCLOSED PUBLIC PLACES has been prepared that outlines procedures for Environmental Health Officers to enforce the provisions of the regulations.

The State Government has adopted the regulations with little consultation with local authorities and has placed the burden of enforcement on Council Environmental Health Officers without providing any funding assistance. Therefore Council's Health Service will be required to enforce the regulations by utilising existing funds and personnel. The State Government has however declared the regulations to be largely self-regulating and has empowered the Executive Director of Public Health as the statutory authority responsible for approving all prosecutions for breaches of the regulations. All of these factors have been addressed in the formulation of new policy PD45.

In order for Council to comply with and enforce the regulations it is recommended that Council resolve to:

1. Repeal existing policy A5.5 NO SMOKING,
2. Adopt the attached amended policy A5.5 NO SMOKING,
3. Adopt the attached new policy PD45 SMOKING IN ENCLOSED PUBLIC PLACES.

Strategic Plan/Policy Implications

Amendment of policy A5.5 and adoption of policy PD45.

Budget/Financial Implications

The State Government has not provided any funding to local authorities for enforcement of the Health (Smoking in Enclosed Public Places) Regulations 1999. Therefore enforcement of the

regulations will be carried out using current Health Service funds.

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

Nil

**14.12 (OCM2_5_1999) - ROCKINGHAM - FREMANTLE
TRANSITWAY (9636) (AJB) (WEST/COASTAL)**

RECOMMENDATION

That Council:

- (1) advise the petition organiser Mr Andrew Di Carlo:-
 1. That the objection by residents on Rockingham Road to the construction of a Transitway within that road is noted and will form part of the information included in the assessment of options for the Transitway being undertaken by Council's Strategic Planning Service;
 2. A decision will not be made on the Transitway until all current studies have been completed and all alternative options to Rockingham Road have been assessed;
- (2) forward a copy of the petition to the Department of Transport for their information together with the Council decision.

COUNCIL DECISION

Background

Council at its meeting held on 11 May 1999 received a petition containing 289 signatures requesting that the Rockingham-Fremantle Transitway Project be stopped and resolved that the matter be referred to the Council Meeting of the 25 May 1999 for consideration.

Submission

N/A

Report

Proposals for a dedicated transit route linking Rockingham, Kwinana, Cockburn and Fremantle were outlined in the Government's Better Public Transport Plan announced by the then Hon Eric Charlton, Minister for Transport.

The proposal is for a busway which would be progressively implemented and designed so as being capable of adoption to other forms of transport over time including light rail.

A detailed assessment of route options was undertaken by PPK Environment and Infrastructure Pty Ltd. Department of Transport , Main Roads WA, Ministry for Planning and the affected local authorities worked closely with PPK to determine the most appropriate and effective alignment.

In May 1998 a comprehensive report was presented to Council detailing the options of Stock Road, Rockingham Road and Cockburn Road.

Council resolved as follows;

- "1. *The proposed transitway alignment within Rockingham Road is supported in principle for the purpose of undertaking more detailed studies to determine whether or not the transitway can be accommodated within the existing reserve, the impact on traffic including access to residential properties, impact on the amenity of residents fronting Rockingham Road;*
2. *Council will reconsider the transitway proposal upon completion of the detailed studies;*
3. *The community should be widely consulted as part of the preparation of the detailed studies."*

In November 1998 BSD Consultants were appointed by Department of Transport to undertake detailed local design study for the Rockingham Road portion of the Transitway. The study brief covers all of the elements outlined in Council's decision of May 1998 and includes property impact, noise, traffic and property values.

A public meeting and an information forum have been held by Department of Transport as part of the consultation process and further meetings are planned once the detailed studies have been completed.

The public meeting and information forum were well attended and generally by residents who live on Rockingham Road.

Typically the questions asked revolved around the impact on people's property including noise, access, land take and property values. Many expressed the view that the system was for the people of Rockingham and Kwinana and to get to Fremantle and was not going to be used by Cockburn residents who were already adequately serviced by the current bus system which was hardly used. The view expressed on numerous occasions was that the service should be on Cockburn or Stock Road where it would not affect anyone. The majority of the people in attendance oppose the Transitway for the reasons outlined above.

Council at its meeting held on 16 March 1999 resolved as follows:-

- "1. *To undertake a review, by Council's Strategic Planning Service, of alternative alignments for the proposed Rockingham-Fremantle Transitway using Cockburn and Stock Road, in the event that Rockingham Road is not an acceptable alignment; and*
2. *Use this information, as appropriate, as part of any submission the Council may make in respect to the Transitway when the proposal is formally made public by the Department of Transport for community and Council consideration."*

In accordance with the Council resolution four alternative route options based on Stock and Cockburn Roads have been identified and are being assessed. The Multi Criteria Assessment will include the items of concern to residents along Rockingham Road, eg noise, property value, access, traffic.

It is considered that the Department of Transport should be given the opportunity to complete the detailed studies and present the outcomes to both the community and Council and the Multi Criteria Assessment of alternative options completed before a final decision is made.

Strategic Plan/Policy Implications

Strategy 6.1, Action 6.1.1 applies.

Policy PD 15 "Ultimate Strategic District Plan" applies.

Policy PD 25 "Liveable Neighbourhoods - Community Design Code" applies.

Budget/Financial Implications

Nil.

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

Nil. State project.

14.13 (OCM2_5_1999) - PROPOSED AMENDMENT NO. 195 TO DISTRICT ZONING SCHEME NO. 2 - PORTION OF LOT 9 COCKBURN ROAD, HENDERSON - OWNER: WATER CORPORATION - APPLICANT: CITY OF COCKBURN (92195) (SA) (COASTAL) (MAP 5) (ATTACH)

RECOMMENDATION

That Council:

(1) adopt the following amendment:-

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

AMENDMENT NO.195

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

1. Rezoning Portion of Lot 9 Cockburn Road, Munster from "Public Purpose (WSD)" and "Important Regional Road Reserve" to "General Industry" and "Important Regional Road Reserve" in accordance with the Scheme Amendment Map;
2. Rezoning Portion of Lot 5 Russell Road, Munster and portion of Russell Road road reserve from "Important Regional Road Reserve" to "General Industry" in accordance with the Scheme Amendment Map;
3. Rezoning portion of Cockburn Road road reserve from "Local Reserve - Local Road" to "General Industry" in accordance with the Scheme Amendment Map; and

4. Amend the Scheme Maps accordingly.

DATED THIS 25th DAY OF MAY 1999

CHIEF

EXECUTIVE OFFICER

- (2) upon preparation of the amending documents, sign the amending documents, and forward a copy to:-
 1. The Environmental Protection Authority in accordance with Section 7A(1) of the Act; and
 2. The Western Australian Planning Commission for information.
- (3) advertise the proposed amendment in accordance with the Town Planning Regulations 1967 (as amended), following receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, ;
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to Council for further consideration following formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act;
- (5) advise the applicant of Council's decision.

COUNCIL DECISION

Background

The Western Australian Planning Commission has recently updated the Metropolitan Region Scheme (MRS) for the proposed Jervoise Bay Infrastructure Project. The MRS Amendment No.1001/33, which is subject to Section 38 Assessment by the Environmental Protection Authority, was finalised earlier this year.

The purpose of the MRS Omnibus Amendment is to incorporate changes to zones and reservations arising from decisions made by the WAPC or Government proposals for the use of land, more detailed studies of specific proposals, and generally to ensure the MRS is kept up to date as the statutory regional plan for Perth.

Submission

Amendment No.195 will rezone:

- portion of Lot 9 Cockburn Road, Munster from "Public Purpose (WSD)" and "Important Regional Road Reserve" to "General Industry",
- portion of Lot 5 Russell Road, Munster and portion of Russell Road road reserve from "Important Regional Road Reserve" to "General Industry", and
- rezoning portion of Cockburn Road road reserve from "Local Reserve - Local Road" to "General Industry"

Report

The purpose of this proposal is to facilitate the realignment of the intersection of Russell and Cockburn Road with the intention of redirecting local traffic onto the Fremantle-Rockingham Highway. The modification to the intersection will discourage through-traffic into the Jervoise Bay Industrial Estate and facilitate the rationalisation of car parking and access to the ship building precinct.

The proposal provides for a road reservation of up to 70 metre width (to accommodate excavation batter slopes) along a 300 metre radius curve which transverses lot 9 Cockburn Road. This land is owned by the Water Corporation and is currently reserved for Public Purposes (WSD). In order to facilitate this proposal the subject land would need to be transferred to "Important Regional Road reserve".

The existing area of land currently designated Important Regional Road reservation would no longer be required and is to be rezoned to Local Road Reserve and together with the remaining superfluous area of land south of the new intersection alignment will be transferred to General Industry zone.

Strategic Plan/Policy Implications:

Corporate Strategic Plan Strategy - Clause 2.1 - Promotion of Henderson Ship building area.

Budget/Financial Implications:

Council to pay costs associated with the Amendment from operational funds.

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

Nil

14.14 (OCM2_5_1999) - PROPOSED OVERSIZE RURAL SHED - LOT 24, 128 BRITANNIA AVENUE, BEELIAR - OWNER: K DASBOROUGH - APPLICANT: D CHEONG & ASSOCIATES (3318251) (PT) (SOUTH) (MAP 9) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the proposed rural shed on Lot 24, 128 Britannia Ave, Beeliar in accordance with the approved plan subject to the following conditions:

Standard Conditions

1. Standard conditions contained in Council Policy PD17 as determined appropriate to this application by the delegated officer under clause 7.6 of Town Planning Scheme - District Zoning Scheme No. 2.

Special Conditions:

1. The shed is to be clad in a material of a type or colour of natural or earth tonings to complement the surroundings or make the shed less conspicuous to the adjoining developments and environment which it is located.
 2. The use of the shed must comply with Council's requirements for the Rural zone.
- (2) Issue an MRS Form 2 Notice of Approval valid for a period of 24 months.

COUNCIL DECISION

Background

ZONING:	MRS:	Rural
	DZS:	Rural
LAND USE:	Vacant	
LOT SIZE:	4053 M ²	
AREA:	216M ²	
USE CLASS:	N/A	

Submission

The submitted plans indicate the construction of a rural shed 216 m² in area. The shed will be constructed in trimdeck cladding and is 5.4 metres in height. (Refer to agenda attachment for a copy of the plan)

The shed will be used for domestic use including the storage of tools, small hobby truck, boat, camping gear, gardening equipment and children's outdoor toys. The owners want to store all domestic goods inside the shed, in order to keep the block neat and tidy. (Refer to agenda attachment for a copy of the statement of proposed use for the outbuilding)

Report

The proposed development has been referred to Council as it is affected by Council Policy PD18 – Ancillary Outbuildings (Sheds) in Special Rural and Rural Zones (adopted 15 December 1998) which states that:

- “1. Any shed in excess of 200m² in area and/or 4.5 metres in height in a Special Rural or Rural zone must be referred to Council for development approval. The applicant must provide a statement of proposed use for the outbuilding for Council’s determination. “

The proposed shed complies with the requirements of by Council Policy PD18 – Ancillary Outbuildings (Sheds) in Special Rural and Rural Zones and Council Policy PD2 – Rural Setback Policy (adopted 15 December 1998) and District Zoning Scheme No. 2. for rural zones, therefore approval is recommended.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.15 (OCM2_5_1999) - PROPOSED TOWN PLANNING SCHEME NO. 3 AND LOCAL PLANNING STRATEGY - REQUEST FOR ADVERTISING (SMH) (9485)

RECOMMENDATION

That Council:

- (1) adopt the Proposed Town Planning Scheme No. 3 Text and Maps under Regulation 13 of the Town Planning Regulations;
- (2) adopt the Local Planning Strategy;
- (3) forward two signed copies of Proposed Town Planning Scheme No. 3 Text and Maps to the Western Australian Planning Commission with a request to advertise the Scheme in accordance with Regulation 14 of the Town Planning Regulations;
- (4) forward two copies of the Local Planning Strategy to the Western Australian Planning Commission for information in support of the proposed Scheme.

COUNCIL DECISION

Background

The Council's Planning and Development Division has been working on the preparation of a new Town Planning Scheme for the district since 1996.

District Zoning Scheme No. 2 was gazetted in 1992 and its five yearly review fell due in 1997.

Initially, the Division, with the Council's support pursued a new Scheme based on innovations which ultimately were not acceptable to the Ministry for Planning.

In the interim, the Ministry for Planning published a draft version of a Model Scheme Text for public comment. During this time it was decided by the Council to revise the proposed new scheme to conform to the proposals contained in the Model Scheme Text, and by so doing abandon the initial version of the Scheme. (Refer to Council Meeting 15 December 1998)

The revised version of the Scheme, referred to as Version 2, was completed following liaison with the Council, particularly the range of zones and the proposals contained in the Zoning Table.

In August 1998, interested Councillors attended a workshop, facilitated by Planning Staff, to discuss the approach to the Scheme and the scheme map zoning options. The outcome of this workshop was used to finalise the Scheme Maps for public advertising.

Since the beginning of 1999, the proposed Scheme has been revised to reflect the draft Model Scheme Text provisions and the incorporation of Councillor's comments, the Local Planning Strategy has been written at the request of the Ministry, because it is currently not a requirement, and the Scheme Maps have been finalised ready for publication and display during the public advertising period.

In accordance with the Regulations, the Council has adopted all the preliminary resolutions to prepare a Scheme, an examination report prepared together with a Scheme Report.

Version 1 of the proposed Scheme was referred to the EPA as required and the Authority determined that the Scheme did not require assessment. The Ministry for Planning has been advised accordingly.

Submission

The proposed Scheme Text and Map together with the Local Planning Strategy is ready to be submitted to the Commission under Regulation 13.

A copy of the proposed Text, Maps and Strategy will be tabled at the Council Meeting.

Report

Initial informal advice from the Ministry for Planning is that the proposed Scheme Text is generally acceptable, largely because it is consistent with the draft Model Scheme Text.

The Planning and Development Division is satisfied that the proposed Scheme documents are sufficiently refined and adequately produced to enable them to be advertised for public comment.

The proposed Scheme Maps are generally the same as those currently applying under District Zoning Scheme No. 2, particularly in relation to the distribution of residential densities. The major change is the introduction of the "Resource" zone in the eastern sector of the district to be consistent with the MRS and the use of a Special Purpose zone for particular major developments within the district.

Should there be any matters that arise after the Council seeks to have the proposed Scheme advertised there is the opportunity for reconsideration prior to advertising in direct liaison with Ministry staff or during advertising.

Modifications to the Scheme could occur following advertising or once it has been referred to the Minister for final adoption.

During the advertising period, public displays should be conducted together with the distribution of information brochures.

It could take some time, based on the experience of other local governments, for approval to advertise to be granted and finalisation following the close of the public comment period. It could take in the order of 2 years before final gazettal.

Potential delays could also be caused by the finalisation of the FRIARS recommendations, which depending on the option adopted, could significantly affect the south-west sector of the Scheme area.

The Local Planning Strategy and the proposed Scheme Text and Map are comprehensive, but self explanatory and therefore would be no advantage in attempting to summarise them as part of this report.

The primary purpose of the report is to enable the Scheme to proceed to advertising, so that the Commission and the community have the opportunity to comment on the proposals.

Strategic Plan/Policy Implications

Corporate Strategic Planning Strategy 2.3 k) and Action 2.3.11 applies.

Budget/Financial Implications

The 1998/99 Budget provides:

- \$19,545 for Legal Advice (Acc. 500476)
- \$20,000 for Community Consultation (Acc. 500474)

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

Nil.

14.16 (OCM2_5_1999) - CLAIM FOR REIMBURSEMENT OF LEGAL COSTS - LOT 13 THOMAS STREET, SOUTH LAKE - OWNER/APPLICANT: N DEVINE (995907) (SR) (EAST) (MAP 14) (ATTACH)

RECOMMENDATION
 That Council advise Mr N Devine that it is not prepared to reimburse his legal costs.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Local Reserve - Public Purposes (SEC)
LAND USE:	Vacant	
USE CLASS:	N/A	

The owner of Lot 13 Thomas Street, South Lake has requested Council's reconsideration of legal costs incurred in regard to the subdivision of adjacent land, namely former Lot 1 North Lake Road.

Copy of Minutes (2 July 1996 and 3 October 1995) and exchanges of correspondence are attached for information.

The reimbursement claim is understood to be for an amount of \$1,028.40 for legal costs incurred by Mr Devine, in respect to a possible road extension across Lot 13.

The WAPC subdivision approval for the former Lot 1 North Lake Road included the following condition:

"Arrangements being made for the Thomas Street deviation and construction prior to the endorsement of any Plan or Diagram of Survey."

The planning rationale for this condition was to eliminate a potential traffic problem associated with the existing, below standard intersection spacing on North Lake Road between Thomas Street and Hammond Road. At that time North Lake Road was controlled by Main Roads WA and it was their requirement for the intersection spacing of Hammond Road and Thomas Street to be rationalised.

Implementation of the condition required the subdivider (B & R Investments) to negotiate with the owner of Lot 13 Thomas Street to acquire a 1295m² portion of Lot 13 for the road extension. B & R Investments is a company controlled by former Deputy Mayor, Terry Battalis.

The parties were unable to reach an agreement on the purchase price and the Planning Consultant for B & R Investments wrote to the City of Cockburn requesting Council to initiate resumption procedures for the proposed road extension land, due to the following circumstances.

"In March 1995, the owners of Lot 1 made a verbal offer to Mr Divine of \$10,000 which was rejected by Mr Divine on the basis that it was too low. In view of the situation, the owners of Lot 1 agreed to appoint an independent valuer to assess the value of the land. The subsequent valuation by Ross Hughes & Co put a value of \$5,000 on the land. By letter dated 13 July 1995, the owners of Lot 1 offered Mr Divine the sum of \$6,000 and offered to pay all costs associated with the sale. By letter dated 18 July 1995, Mr Divine advised that the previous verbal offer of \$10,000, together with the offer for \$6,000, was unacceptable but the subject land from Lot 13 is still for sale.

Our client is of the view that they have used their best endeavours to secure the necessary land for the extension of Thomas Road by private negotiations with Mr Divine. Our client's view is that Mr Divine wishes to take advantage of the situation, whereby the road is required as a condition of

subdivision, to achieve a land value far in excess of its current market value.

Whilst the Thomas Road extension forms part of the subdivision for Lot 1, the link also provides the following benefits to Council:

- *Increases the distance between the existing intersection of Thomas Road and Hammond Road with Forrest Road. This is considered essential given the proposed development of land between Thomas Road, Briggs Street and Berrigan Drive, east of the Western Power power lines, which will significantly increase traffic volumes on Thomas Road and hence the intersection of Thomas Road and Forrest Road;*
- *Provides a continuity of open space comprising Anning Park and POS to be provided within Lot 1."*

In response to this request, Council resolved as follows at its meeting on 3 October 1995:-

- "(1) Council affirm its proposal for the deviation of Thomas Street as per the approved plan for Lot 1 Forrest Road and the closure of the current Thomas Street access on to Forrest Road.*
- (2) Council advise Mr Devine that it has received a valuation from the prospective purchaser (B & R Investments) of the area of land proposed for the extension of Thomas Street;*
- (3) Mr Devine be invited to seek an alternative valuation and negotiate further with B & R Investments;*
- (4) Mr Devine be advised that in the event that a commercial resolution cannot be reached Council may consider alternative options to implement the proposed Thomas Street extension."*

Exchanges of correspondence between Council staff and Mr Devine's Solicitors followed.

On 8 January 1996 the WAPC resolved to delete the condition from the subdivision approval.

Submission

Mr Devine subsequently wrote to Council on 17 April 1996 requesting reimbursement of his legal costs for the reasons

outlined in his letter attached. Council at its meeting on 2 July 1996 resolved that it was not prepared to reimburse these costs.

Mr Devine met recently with Commissioner Donaldson and the Director, Planning and Development and has suggested that there is a legal basis for Council to pay his costs.

Report

Circumstances have not changed since Council's 1996 decision and it is considered that there is no right to compensation.

The Land Administration Act 1997 (s181) provides for compensation to be payable for 'reasonable costs incurred' in cases when formal resumption procedures have been commenced and then abandoned.

In this case no formal resumption procedures were initiated by the Council.

It therefore appears that Mr Devine on his own volition sought legal advice in relation to this matter.

Should the Council be of the view that the Council has for some reason an obligation to reimburse Mr Devine his out of pocket legal expenses, then it would need to resolve to make an ex-gratia payment.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

It would be open to Council to make an 'ex-gratia' payment of \$1,028.40, however this could be considered as an undesirable precedent, as there may be other cases in which people engage Solicitors in respect to contentious issues and seek to make Council pay their costs.

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

Nil.

**14.17 (OCM2_5_1999) - SAND EXTRACTION - PT LOT 135
ARMADALE ROAD, BANJUP - OWNER: CSR READYMIX
CONCRETE - APPLICANT: CSR READYMIX QUARRIES
(5513296) (CC) (EAST) (MAP 20) (ATTACH)**

RECOMMENDATION

That Council:

- (1) refuse the proposal to excavate sand from the Armadale Road Important Regional Roads reservation and the 40 metre buffer on Pt Lot 135 Armadale Road for the following reasons:
 1. The proposal would result in a loss of visual amenity by the removal of natural vegetation and ridgelines and increase potential for views to the pit area which would impact negatively on the rural character of the locality;
 2. The proposal would set an undesirable precedent for other owner/occupiers of sand excavation sites to seek approval to similar proposals;
- (2) Issue a MRS Form 2 Notice of Refusal and;
- (3) Advise the referral authorities and the Western Australian Planning Commission of the Council's decision.

COUNCIL DECISION

Background

ZONING:	MRS:	Rural Water Protection & Important Regional Roads
	DZS:	Rural
LAND USE:	Rural and Important Regional Roads	
LOT SIZE:	38 ha	
AREA:		
USE CLASS:	SA use	

Council at its Meeting of 20 April 1998 resolved as follows:

- '1) defer consideration of the proposal to excavate from the Armadale Road Reservation until the Planning Application Fee has been paid; and
- 2) advise the application accordingly.'

The Planning Application Fee was paid and the Council considered the proposal at its meeting of 11 May 1999 and resolved to defer consideration of the proposal for consideration of comments made by CSR (Paul Rokich) at the public address session.

Report

See Agenda Attachments April CDC Item 9.5 and May CDC Item 14.3 for background details.

CSR has submitted two documents in addition to the original submission for the proposal. The first document titled 'Addendum to Application' was presented at the Council meeting of 11 May 1999. See agenda attachments for copy of 'Addendum to Application'.

The second document is titled 'CSR Submission Against Council Report Item 14.3 of the meeting of 11 May 1999'. The submission challenges statements made in the Council report Item 14.3. The following is a summary of the proponents' criticism and Council's response.

Submission

The application is not contrary to the current development approval.

Response

Condition 1 of the development approval requires development to be in accordance with approved excavation management plan, which indicates a total buffer with a width of 70 to 100 metres, comprising the Armadale Road reservation and Council's 40 metre buffer setback from the road reserve boundary. Excavation of the buffer and reserve would be contrary to this plan and therefore the approval.

Submission

No excavation has occurred to date that is contrary to the current development approval.

Response

There is no statement in the report suggesting that excavation, contrary to the current approval, has occurred.

Submission

The by laws allow for variations to buffer distance requirements.

Response

The By-Laws do allow for excavation in buffer zones subject to the written approval of Council. It is acknowledged that this matter was not discussed in the Report of April. It can be stated that there is a general presumption in the By-Laws against excavation in buffers.

It follows that a development approval to excavate in a buffer would also be considered as the written approval of Council required under the By-Laws. The decision not to allow for excavation in the buffer is based on planning considerations discussed below.

Submission

The Scheme and By-Laws prevail over the Council's Extractive Industry Policy PD-21.

Response

Council's is proposing to introduce Extractive Industry provisions into the Scheme via Amendment 186. The Amendment mirrors the Policy and represents best planning practice for extractive industry applications. The By-Laws, the Policy and proposed Amendment 186 indicate that excavation within buffer zones may be allowed subject to the approval of Council. Council's decision not to support excavation within the reserve is based on a set of planning considerations discussed below.

Submission

Proposed Amendment 186 Extractive Industries has yet to be finalised and does not yet have the force of Law. It should not be a consideration against approval.

Response

Proposed Amendment 186 has been publicly advertised and is therefore a seriously entertained proposal for which Council should have regard. The amendment indicates that buffers adjacent to road reserves should not be less than 40 metres unless otherwise agreed to by Council. Similarly, there is a general presumption in proposed Amendment 186 against excavation of buffers.

Submission

CSR considers that excavation and clearing of the road reserve well ahead of road construction is forward planning and is therefore a point for the proposal and not against.

Response

Main Roads has scheduled the construction/widening of Armadale Road in its 10 year major road works program. Despite this there is no guarantee that this will occur as road programs are often rescheduled. It is considered that excavation and clearing of the current buffer and reserve with only a 5-10 metre buffer and bund would result in a loss of visual and rural amenity in the locality in the period between excavation and clearing and the construction of the road. Armadale Road is an important distributor road and gateway to the City of Cockburn and Thomson's Lake Regional Centre. A minimal buffer in juxtaposition to vegetated Special Rural lots on the adjacent side of Armadale Road would result in a less than appealing vista road users. The appropriate time to excavate the reserve would be following a final detailed design for the second carriageway of Armadale Road and as part to road construction, and a commitment to commence the works within an acceptable time frame which would be less than 1 year.

Submission

CSR considers that commitments contained in the application to establish bunds will provide a visual buffer from Armadale Road and that no data has been presented to support the statement that the reserve would be too narrow for visual, acoustic and dust buffering. Acoustic effects from excavation is irrelevant given traffic noise from Armadale Road would mask out the noise.

Response

Standard practice for sand extraction operations is to create bunds from topsoil and overburden. A prominent bund adjacent to an important distributor road is a potential source of visual blight and source of dust nuisance in dry windy conditions. In respect to potential acoustic effects, the onus is on the applicant to provide sufficient detail to demonstrate that the reduced bund will provide an adequate acoustic buffer from on site operations. Noise however, is not a major issue, only something to be considered.

Submission

CSR considers that there is no Special Rural development adjacent to the site.

Response

The land on the adjacent side of Armadale Road is zoned Special Rural under the City of Cockburn District Planning Scheme No. 2, and the amenity of the nearby landowners is a valid planning consideration.

Submission

CSR considers that there is no requirement for buffers in Special Rural development and that the original submission outlined the process by which CSR would ensure an effective Special Rural development.

Response

A common characteristic of successful Special Rural development is the existence of established vegetation.

Notwithstanding the above, the Council has not considered any application for Special Rural type development on the land, and as such a use may not be acceptable to other authorities such as the Waters and Rivers Commission.

Submission

In respect to recommended refusal reason 1, CSR considers that the commitments to create a bund and planting would not result in external views to the pit area.

Response

CSR's excavation operation is extensive, covering several sites including Lots 132 and 133 Jandakot Road and Lot 2 Armadale Road. The steep topography, vegetation and width of the reserve and buffer prevents most, bar the curious, from views to the barren pit area. The concern is that a minimal buffer and sand bund would increase potential for views to the pit area.

Submission

In respect to recommended refusal reason 2, CSR considers that no undesirable precedent would be set as Council has

already agreed to variations to 40 metre buffer distances and the proposal is a response to the unique circumstance of the MRD reserve.

Response

40 metre buffers to road reserves may not necessarily apply were excavation precedes a non-rural landuse such as industrial or residential development where the requirement to create a landform conducive to such development is a chief consideration. In respect to excavation in rural areas a paramount consideration is the maintenance of rural character, hence the importance of maintaining well vegetated buffers.

The issue of precedent relates to other quarry operations on Armadale Road such as quarry operations on Lot 136 and Lot 4 Armadale Road to the east of the site. Approval to CSR's proposal to excavate in the reserve and buffer may prompt operators on these sites to also seek excavation of their reserves and buffers prior to road construction.

Submission

Main Roads WA supports the proposal.

Response

The support of Main Roads for the excavation was acknowledged in the Report to Council of 20 April 1999.

Summary

Whilst it is acknowledged that excavation of the reserve is a necessity of road construction the principle issue is timing. It is considered that the proposal is premature and that the appropriate time should be just prior to construction. Council is chiefly concerned that the minimal buffer and bund will have a detrimental effect on the rural amenity of the area. The adjacent rural land on the southern side of the road in comparison to a narrow and sparsely vegetated buffer on the northern side would create a negative vista for road users. This is of particular relevance given the high volume of traffic on Armadale Road and its function as a gateway to the City of Cockburn and the Thomsons Lake Regional Centre.

Although undertakings have been made to provide screen planting, it is seldom effective especially in the short to medium term where the relative small size of plants does not provide adequate screening.

In respect to the points raised by CSR that the proposal is not contrary to the By-Laws the Scheme and Council's Extractive Industries Policy, it is acknowledged that these do provide for excavation of buffer zones, however, it is at the discretion of Council, not the applicant, to allow for such excavation. Clearly, there is a general presumption in the By-Laws, the Policy and proposed Amendment 186 against excavation of buffers.

The current development approval reflects the requirements of CSR when the original application was considered and approved by Council. There was no appeal to the conditions of approval.

The final use of the land has yet to be determined. Any proposal to develop the land for Special Rural type development (2 ha lots) will need to be considered and assessed in accordance with the requirements of the Jandakot Ground-water Protection Policy. CSR's assertion that the proposal creates a landform conducive to Special Rural developed in based on the presumption that the land can be developed so, which is not necessarily the case.

In respect to the TPS No. 2, the Council must be satisfied that by varying the standards there would be no detrimental impact on the locality or set an undesirable precedent. Under the Provision of TPS No. 2 Clause 6.3.2 for the determination of discretionary uses (SA uses) Council must have regard to the preservation of amenities in the locality.

In Council Item 9.5 it was indicated that Council would be willing to consider excavation of 40 meter buffer only. CSR has not indicated to Council that this compromise proposal is acceptable. It is considered that to achieve the landform goals of CSR it would be necessary to approve the proposal as submitted, which Council is not prepared to do. It is therefore considered inappropriate for Council to indicate acceptance of an alternative proposal within the scope of this application. Accordingly, Council withdraws any indication of acceptance of alternative proposals.

This proposal is also subject to determination of the Western Australian Planning Commission.

Strategic Planning Policy Implications

PD 21 Extractive Industries
Proposed Amendment 186

Budget/Financial Implications

N/A

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

Nil

14.18 (OCM2_5_1999) - PROPOSED AMENDMENT NO. 194 TO DISTRICT ZONING SCHEME NO. 2 - PORTION OF RESERVE 24309 COCKBURN ROAD, HENDERSON AND PART OF COCKBURN SOUND - OWNER: RESERVE VESTED IN THE CITY OF COCKBURN - APPLICANT: GRAY & LEWIS (92194) (SA) (COASTAL) (MAP 5) (ATTACH)

RECOMMENDATION

That Council:

(1) adopt the following amendment:-

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

AMENDMENT NO.194

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

1. Rezoning Portion of Reserve 24309 Cockburn Road, Henderson from Unclassified Land to General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry), and portion of Cockburn Road from Local Reserve - Local Road to General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry) in accordance with the Scheme Amendment Map;
2. Including Portion of Reserve 24309 and part of Cockburn Sound in the Third Schedule - Restricted Use under 10. Cockburn Road; and
3. Amending the Scheme Maps accordingly.

DATED THIS 25th DAY OF MAY 1999

CHIEF EXECUTIVE OFFICER

- (2) upon preparation of the amending documents, sign the amending documents, and forward a copy to:-
 1. The Environmental Protection Authority in accordance with Section 7A(1) of the Act; and
 2. The Western Australian Planning Commission for information.
- (3) following receipt of formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the proposed amendment in accordance with the Town Planning Regulations 1967 (as amended);
- (4) notwithstanding (3) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to Council for further consideration following formal advice from the Environmental Protection Authority that the Scheme or Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act;
- (5) advise the applicant of Council's decision.

COUNCIL DECISION

Background

The Western Australian Planning Commission has recently amended the Metropolitan Region Scheme (MRS) for the proposed Jervoise Bay Infrastructure Project. The MRS Amendment No.1001/33, which is subject to Section 38 Assessment by the Environmental Protection Authority, was finalised earlier this year.

The purpose of the MRS Omnibus Amendment is to incorporate changes to zones and reservations arising from decisions made by the WAPC or Government proposals for the use of land, more detailed studies of specific proposals, and generally to

ensure the MRS is kept up to date as the statutory regional plan for Perth.

Submission

Amendment No.194 will rezone Portion of Reserve 24309 Cockburn Road, Henderson from Parks & Recreation Reserve to General Industry (Restricted Use: Ship Building) and portion of Cockburn Road from Local Reserve - Local Road to General Industry (Restricted Use: Shipbuilding)

Report

The proposed transfer of the subject land to General Industry will assist in the development of the southern harbour component of the Jervoise Bay Marine Industry Infrastructure Development. This development has been adopted as a priority initiative by the State, but has not been supported by the City of Cockburn.

It is intended that the southern harbour will support the fabrication and loadout of purpose-built modules and jackets; the fit out of floating production and storage vessels; naval vessel refits and maintenance; and module and specialist plant fabrication for the mining and mineral processing industries.

The southern harbour will be divided into two precincts:- the Heavy Fabrication/Ship Building precinct and the Marine-Related Heavy Industry precinct.

The development of the Heavy Fabrication/Ship Building precinct will require the construction of a major offshore breakwater to provide a fully protected waterfront and reclamation of approximately 50ha of waterfront land. The reclaimed area is intended to be largely developed as a common use Fabrication/Laydown Facility with direct access to waterfront berths and loadout wharves.

The scheme was the subject of an environmental review (formal assessment) by the Environmental Protection Authority, as a part of the MRS Major Amendment procedure. The Minister for Environment granted Ministerial approval to the proposed amendment, subject to conditions in December 1998.

As a large portion of the Jervoise Bay Infrastructure Development area lies outside the City of Cockburn's Municipal Boundary, Council has no jurisdiction to consider or assess the matter. The amendment process will now take place in stages. Refer to attached plan for proposed stages.

The first stage is the land area which currently lies inside Council's Municipal Boundary, refer to the above amendment details (Amendment No. 194). The next stage will be the realignment of the Municipal boundary to include the Heavy Fabrication/Ship Building precinct in Council's Municipal area, and the final stage will be the rezoning of this precinct.

Works within the precinct area will soon commence but to date there has been no Structure Plan submitted to the Council or the WAPC for consideration and adoption.

Also Amendment 170, which proposes to amend the "Restricted Use: Shipbuilding" description has not yet been finalised, despite this however, the consultants for DOCAT / Landcorp have requested that this amendment be proceeded with.

The advice of the Western Australian Planning Commission has been sought, as to the best method to resolve the boundary alignment and jurisdiction issue.

Strategic Plan/Policy Implications

Corporate Strategic Plan Strategy - Clause 2.1 - Promotion of Henderson Ship building area.

Budget/Financial Implications

N/A

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

N/A

14.19 (OCM2_5_1999) - HAMMOND ROAD WIDENING (IMPORTANT REGIONAL ROADS) - PT LOT 433 HAMMOND ROAD, BEELIAR - OWNER: ISPARO FARMING (4309297) (CC) (SOUTH) (MAP 15) (ATTACH)

RECOMMENDATION

That Council advise the Catholic Church and Isparo Farming that Council is prepared to accept a deed to satisfy Condition 3 of the Western Australian Planning Commission's Subdivision Approval (WAPC Ref. 109238) committing the Council to acquire Lot 501 (road widening) within 15 years of the date of the agreement, subject to the deed being to Council's satisfaction.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban, Important Regional Roads & Parks and Recreation
	DZS:	Rural Important Regional Roads & Parks and Recreation
LAND USE:	Pasture Approved for Primary and Secondary School	
LOT SIZE:	13.85ha	
AREA:	N/A	
USE CLASS:	N/A	

Lot 433 is located at the corner of Hammond Road and Beeliar Drive and comprises currently undeveloped rural land, land reserved MRS Parks & Recreation and Important Regional for the widening of Hammond Road.

The Western Australian Planning Commission approved subdivision (WAPC Ref 109238) of the land to create separate lots for the Parks and Recreation land, the Important Regional Roads land and a balance lot of Rural zone land. See agenda attachments for subdivision approval.

Council's support of the subdivision is conditional upon the owner of the land entering into an agreement with the City to pay developer contributions for the upgrading/construction of Hammond Road, and to provide to Council free of cost a portion of the road widening with the balance being purchased by Council.

The owner has entered into an agreement to sell the balance Rural zone land to the Catholic Church for the development of a private school. The Council issued a Planning Approval for the school on 17 December 1998.

The Church has agreed to pay the developer contribution for the upgrading/construction of Hammond Road via the deed. Isparo will retain ownership of the road widening until Council acquires the land in accordance with the terms of the Deed.

Council's solicitors are currently drafting the Deed.

Submission

The Church is concerned that failure of Council to acquire the road land may allow the owner to develop the site for alternative

uses, which would impact on the school's access and exposure to Hammond Road. The Church is requesting a resolution from Council that it will acquire the road widening in accordance with the terms of the deed within 15 years.

Report

It is considered that Council can provide a commitment to the Church to acquire the land within 15 years for the reasons outlined below:

Council is formally committed to the future widening and upgrading of Hammond Road in accordance with the Metropolitan Region Scheme as is evidenced by the initiation of Amendment 197 to TPS No. 2 which is to formalise pro-rata contributions for road construction from landowners in the area generally bounded by Kwinana Freeway, Beeliar Drive, Bartram Road and the Regional Open Space and including the subject land.

Traffic forecasts prepared for Hammond Road range between 11,000 vehicles per day (Connell Wagner 1997) and 15,000 vpd (Sinclair Knight 1993) at the Beeliar Drive end of Hammond Road. Projected Traffic volumes confirm the need to upgrade Hammond Road to four lanes and confirms Hammond Road's Important Regional Roads status in the MRS.

Council has commissioned engineering consultants Halpern Glick Maunsell to prepare preliminary designs and cost estimates for the Hammond Road between Beeliar Drive and Bartram Road, and the other sections of Hammond Road south of Bartram Road. Although design, and costing are under review the section of Hammond Road adjacent to Pt Lot 433 is no subject to review.

It is considered that 15 years is a more than sufficient period to finalise design, costing and contribution arrangements, and for increased traffic volumes to warrant acquisition of Lot 501 (road widening).

Strategic Plan/Policy Implications

Proposed Amendment 197 Developer Contributions

Budget/Financial Implications

Council committed to purchase balance portion of Hammond Road reserve from Isparo within 15 years. The monies for the

purchase will be derived from the pro-rata contribution from landowners in the catchment area to Hammond Road. This is provided for in Amendment 197.

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

Nil

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (OCM2_5_1999) - REPORT ON FINANCIAL STATEMENTS (5505) (NM) (ATTACH)

RECOMMENDATION

That Council receive the Report on the Financial Statements for the month of March/April 1999.

COUNCIL DECISION

Background

Section 6.4 of the Local Government Act 1995 requires Council to prepare financial reports. Section 34(1) of the Local Government (Financial Management) Regulations 1996 prescribes that a Local Government is to prepare:

1. Monthly Financial Reports in such form as the Local Government considers to be appropriate;
2. quarterly financial reports for the periods ending 30 September, 31 December, 31 March and 30 June; or
3. triennial financial reports for the periods ending 31 October, 28 February and 30 June.

Section 35(1) (c) and (d) of the Regulations states that the report is to identify:

- any significant variations between the year-to-date income and expenditure totals and the relevant annual budget provisions; and

- any significant areas where the activities of the local government are not in accordance with the estimates set forth in the annual budget.

Submission

N/A

Report

Attached to the Agenda are Financial Reports for the periods ended 31 March 1999 (Quarterly) and 30 April 1999 (Monthly).

The reports are presented to this Meeting as a one off exercise in order to bring them in line with the new Council Meeting structure.

Any significant variations between the year-to-date income and expenditure totals and the relevant annual budget provisions, were identified and addressed through the Budget Review, submitted to Council on 16 February 1999. Since then, no further significant variations have been identified.

As at 31 March 1999, there were no significant areas where the activities of Council were not in accordance with the annual budget, except those areas which were addressed in the mid-year Budget Review.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

N/A

15.2 (OCM2_5_1999) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for March/April 1999.

COUNCIL DECISION

Background

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

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

N/A

15.3 (OCM2_5_1999) - FIRE SERVICE LEVY - VOLUNTEER BUSH FIRE BRIGADES (1554; 1556) (ATC)

RECOMMENDATION

That Council:

- (1) defer the imposition of a levy in respect of volunteer bushfire brigades, until the Fire Service Levy in relation to the permanent Fire District is introduced; and
- (2) advise affected ratepayers of this change.

COUNCIL DECISION

That Council:

Background

At its Meeting in February 1999, Council decided to impose a levy in respect of volunteer bushfire brigades, on owners of properties outside the permanent Fire District. This levy was to be imposed as a matter of equity - those properties in the permanent Fire District were to pay a Fire Service Levy imposed by the State Government, and it was therefore considered appropriate that those properties outside the permanent Fire District covered by the Volunteer Bushfire Brigades should contribute towards the cost of the Brigades.

Submission

N/A

Report

The Minister for Police and Emergency Services has announced that the Fire Service Levy proposed to be introduced from 1 July 1999 would not get through State Parliament before this date and therefore introduction of the levy would not be progressed in the immediate future. He further advises that, "the framework for inevitable changes to fire levy contributions, and potentially, emergency services funding in this State, is now well advanced and we will continue our commitment to develop further legislation to address these issues.

Due to the enforced delay, it is now an opportune time to review our achievements to date and look at continuing to address other funding inequities in our emergency services, including the bushfire brigades, the FRS volunteer brigades, the State Emergency Service and volunteer sea search and rescue, in the future. In the meantime, the current collection system for funding fire and rescue in this State, will rest with the ICA, which together with Local Government Authorities (12.5%), contribute 87.5% of the total Western Australian FRS budget.

As the Volunteer Fire Brigade Levy was to be introduced as a matter of equity, the deferment of the Fire and Rescue Service Levy should result in the deferment of the Volunteer Fire Brigade

Levy. All ratepayers covered by the Volunteer Fire Brigades were advised of the proposed introduction of a levy and it is therefore appropriate that they be advised of the deferment of the levy.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The Volunteer Fire Brigade Levy was to have raised \$150,000 in 1999/00. The introduction of the Fire and Rescue Service Levy was estimated to save Council \$250,000 in its payments to the W.A.F.B. This additional income/savings was to be used to minimise rate increases. This will now not be possible.

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

N/A

15.4 (OCM2_5_1999) - TENDER NO.11/99 - SALE OF 75 BRITANNIA AVENUE, BEELIAR (3411614) (KJS)

RECOMMENDATION

That Council:

- (1) accept Tender No.11/99 - Sale of 75 Britannia Avenue, Beeliar from Mrs. M. A. Neri for the sum of \$137,100; and
- (2) amend Delegated Authority function DA-F5 - "Acceptance of Tenders", to include the sale of Council goods, services or property by tender, as attached to the Agenda.

COUNCIL DECISION

Background

Following a decision of Council at its Meeting held on 16 March 1999, to call for tenders for the purchase of 75 Britannia Avenue,

advertisements were placed in both weekend newspapers over a period of several weeks.

Submission

Two tenders were received by the close of the tender period:

- | | | |
|----|-------------|-----------|
| 1. | M. A. Neri | \$137,100 |
| 2. | Peter Erzay | \$110,000 |

and one tender was received after the close of the tender period from:

- | | | |
|----|--------------|----------|
| 3. | D. Tomlinson | \$70,000 |
|----|--------------|----------|

Report

A Valuation Report by Jeff Spencer, Licensed Valuer placed a valuation of \$150,000 on the house and land, with \$120,000 for the land and \$30,000 for the house.

Recent sales of Lots 23, 24 and 26 Britannia Avenue, being vacant land of equal area, were sold at \$135,000 each. The house at 75 Britannia Avenue is in a very poor state. Most prospective purchasers who inspected the property were interested in the land, as lots of around 4,000 sq.m. were rare in this area. The offer of \$137,100 probably represents land value in the current market. In November 1998, a local real estate agent reported after inspecting the property that they would, if commissioned, market the property for between \$125,000 - \$135,000.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

An income of \$130,000 has been budgeted for the sale of this property in the financial year 1998/99.

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

N/A

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (OCM2_5_1999) - TENDER NO. 9/99 - SALVAGE AND RECOVERY RIGHTS - HENDERSON LANDFILL SITE (AS) (4433) (COASTAL) (ATTACH)

RECOMMENDATION

That Council resolve to accept the tender of \$3,800 submitted by Clinton John Scott for Tender No. 9/99 - Salvage and Recovery Rights - Henderson Landfill, for a period of two year with the option at Council's discretion of extending for a further year following review of this operation.

COUNCIL DECISION

That Council:

Background

In an attempt to reduce the amount of reusable waste going into the Henderson Landfill Site, a salvage and recovery operation has been undertaken since October 1998. This has operated on an "unofficial" basis alongside Council's community recycling efforts. Figures for March and April 1999 show that a total of 51,023 kg (or 836 kg per day) was removed out of the waste stream and recycled.

Council has received no income from the sale of this material, however there is a rebate of \$3 per tonne of waste which is diverted from landfill (in effect, a \$3 refund of the Department of Protection Landfill Levy paid when the waste entered the site). Council does, of course, receive income when the waste enters the site.

Under the current trial an average of 25 tonne per month is being salvaged from the typical 12,000 tonne of waste being disposed of on the lined site at Henderson Landfill Site per month. Council presently coordinates the community recycling bins at the entrance to the Landfill Site recovering oil, paper, glass, cardboard, aluminium cans and batteries. It is proposed that the successful tenderer would be responsible for this operation thus reducing Council's costs in the maintenance of the area other than supervision of the scavenger. Waste Services currently spend approx. \$6000 per annum maintaining the recycling bins. It is proposed to significantly increase the amount of material being recovered and recycled by appointing

a professional scavenger who approaches the operation in a more businesslike manner than the ad-hoc operation which currently exists. Refer to Landfill Supervisor's Estimated Costs attached to the Agenda.

There is also the benefit of securing an annual income from a professional scavenger for the exclusive rights to recover material from the site.

It was with these aims that Waste Services studied other operations at landfill sites and using the information gained, prepared the specification and sought tenders for salvage and recovery rights at the Henderson Landfill Site.

Submission

N/A

Report

Submissions for Tender No. 9/99 Salvage and Recovery Rights - Henderson Landfill Site closed on 15 April 1999. Eleven sets of documents were issued and five tenders were received. A Summary of tenders received is attached to the Agenda. The lowest and highest tenders received (Baxter Enterprise at \$1,560 and Patricks Recycling at \$9,600) are both closely associated with the current recycling operator, George's Recycling. George's Recycling did not submit a Tender. The most experienced tenderer was Clinton John Scott with 12 years experience operating the recycling area at Gosnells Waste Disposal Area. It is felt that an experienced operator with ready markets for all classes of waste being recycled will be motivated to remove as much material as is physically possible to maximise their income.

After examining the tenders, considering the tenderer's ability to start the operation efficiently on commencement, maximise the removal of recyclables from the site and on evaluation of relevant references and referees, Clinton John Scott is clearly the preferred tenderer.

The lowest tenderer was not considered due to a lack of experience as compared with the highest tenderer.

Strategic Plan/Policy Implications

Recycling of household waste is an important component of Council's Waste Minimisation Policy and, as such, must be effectively managed to minimise the amount going to landfill and

maximise the amount of material being diverted from the waste stream, providing positive leadership on this issue to the greater community.

Budget/Financial Implications

As well as modest income for salvage and recovery rights of \$3,800, there is likely to be savings of approximately \$4,000 per annum currently allocated to the maintenance of the recycling area which will be used to increase the time allocated to essential tasks within the site such as litter control, fence maintenance and improved directional signage and safety.

Council will also receive a rebate of the \$3 Landfill Levy which leaves the site estimated at some \$700 per annum.

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

Nil

17. COMMUNITY SERVICES DIVISION ISSUES

Nil

18. EXECUTIVE DIVISION ISSUES

18.1 (OCM2_5_1999) - RE-AFFIRMATION OF 1998/99 BUDGET ADOPTION DECISIONS (1335) (RWB)

RECOMMENDATION

That Council re-affirm the following decisions of the Special Meeting of Council held on the 28th July 1999 (Budget Adoption) by absolute majority:-

- (a) Annual Budget
- (b) Rate Charge
- (c) Service Charge
- (d) Granting of a discount or incentive for early payment of any rate or service charge
- (e) Waiving a rate or service charge or granting other concessions in relation to a rate and service charge
- (f) Setting an interest rate on a rate or service charge that remained unpaid.

[sections 6.2, 6.46, 6.47, 6.51 of the Act]

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

The Department of Local Government Compliance Assessment Report highlighted that Council, in adopting its 1998/99 Budget and associated charges, did not do so by an Absolute Majority, as required under Sections 6.2; 6.46; 6.47 and 6.51 of the Local Government Act 1995.

Submission

N/A

Report

By formally re-affirming the resolutions associated with the adoption of the 1998/99 Budget, Council is complying with the requirement to do so and can respond to the Department that this issue has been rectified.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

18.2 (OCM2_5_1999) - DEPARTMENT OF LOCAL GOVERNMENT COMPLIANCE ASSESSMENT (1335) (RWB) (ATTACH)

RECOMMENDATION

That: Council:

- | |
|---|
| <ul style="list-style-type: none"> (1) receive the Compliance Assessment for the Department of Local Government under cover of letter dated 27th April 1999; (2) note the high level of compliance as advised by the Executive Director, Mr John Lynch; (3) advise the Department of Local Government of the following actions, outcomes or comments relating to the non-compliance |
|---|

recommendations in the report:

3.1 ISSUE

That Council satisfy itself that the services and facilities it provides are integrated and coordinated with those provided by the state or commonwealth, do not inappropriately duplicate services and facilities provided by the public or private sector and that services and facilities are managed effectively and efficiently. *[section 3.18 of the Act]*

RESPONSE

The Local Government Act 1995 provides that a local government is to satisfy itself that services and facilities that it provides -

- (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (c) are managed efficiently and effectively.

Council has adopted a practice of considering the relevance of this section of the Act when determining a decision on any matter placed before it.

Key Performance Indicators have been developed which measures the efficiency of the services.

A report will be placed before Council in November '99 analysing on a service unit basis, the implications of this section.

3.2 ISSUE

Tender Register to include details of the successful tenderer and decision to invite tenders. *[Function and General Regulation 17]*

RESPONSE

Instructions have been issued to staff responsible for maintaining the Tender Register, to ensure:

- (1) The decision to invite Tenders, together with the relevant Officer's delegated authority or Council resolution, be recorded in the Tender Register, and
- (2) Details of the tender awarded, including the name of the successful tenderer and the amount tendered, be recorded in the Tender Register.

Regular checks of the Tender Register will be undertaken to ensure that the register is kept up to date.

3.3 **ISSUE**

Delegations from Council to Committees to be included in the Register of Delegations. *[section 5.18 of the Act]*

RESPONSE

The Delegations from Council to Committees, was available in an appropriate register.

Apparently, the inspecting officers approached the Customer Services Officer and requested the Delegated Authority Register and was provided with the Register of Delegated Authority to Officers only. While the Register of Delegations to Committees was available, it was not provided to the Inspector as the staff member assumed (incorrectly) that the Register provided was all that was required.

The Compliance Report (Page 5) mentions that it does not consider Council has complied with its requirement to review delegations to Committees, even though the recommendation to Community Development Committee was subsequently deferred by Council, pending review of the meeting procedure. However, this does not extend to Delegations made to the Strategic and Policy Committee, which were clearly carried out in accordance with requirements.

In terms of correcting any anomaly in relation to the Delegations to the Community Development Committee, there can be no action taken as the Committee no longer exists.

3.4 **ISSUE**

Appropriate records of decisions made under delegated authority to be established. *[Section 5.46 of the Act and*

Administration Regulation 19]

RESPONSE

Council has developed a computerised performance management system which officers who are delegated authority, are required to post details of the application and decision taken. The system is in its infancy and all staff who have delegated authority, have not been using the system.

Previous reliance has been on the appropriate file being treated as a register/record of delegations used. Based on earlier advice received from the Department, the use of the files was understood to have complied with the Act.

The need to utilise the performance system will be reinforced and monitored.

Councillors have access to the system through a dial in connection.

Whilst not a statutory requirement, a register of decisions taken under delegated authority will be provided for public information.

One off authority to officers will, in future, be included in a Delegation Register.

3.5 ISSUE

Employees who have a financial interest in a matter before committee and/or council disclose the nature of the interest at committee and council meetings. *[section 5.70 of the Act]*

RESPONSE

The requirement to disclose a financial interest relating to the CEO's Performance Review, was not known. This requirement is now being complied with.

3.6 ISSUE

Re-affirm the following decisions of the Special Meeting of Council on the 28 July 1998 (Budget Adoption) by absolute majority.

- (a) Annual Budget
- (b) Rate Charge
- (c) Service Charge

- (d) Granting of a discount or incentive for early payment of any rate or service charge
- (e) Waiving a rate or service charge or granting other concessions in relation to a rate and service charge
- (f) Setting an interest rate on a rate or service charge that remained unpaid.

[sections 6.2, 6.46, 6.47, 6.51 of the Act]

RESPONSE

While the decisions at the Budget Meeting were carried 13/1, the adoption of absolute majority was not recorded. All future officer reports will detail this voting requirement to ensure this oversight does not recur.

Council, at its meeting of the 25th May 1999, rectified this matter by re-affirming the decision.

3.7 ISSUE

Quarterly or triannual financial report to be prepared and presented to Council. *[Financial Management Regulations 34 & 35]*

RESPONSE

A reminder system will be put in place to ensure that required reports are presented to Council in accordance with Financial Management Regulations 34 and 35.

- (4) advise the Department of Local Government of the following actions, outcomes or comments relating to the recommendations in the report not relating to non compliance.

4.1 ISSUE

That Council and the CEO define and agree on performance targets and quantifiable outcomes in undertaking reviews of the CEO's performance.

RESPONSE

Council, at its meeting of the 16th March 1999, determined that the system of Performance Review for the CEO be developed on the basis of the model produced by the Western Australian Municipal Association.

The previous system required by Council, will be maintained as the basis of a quarterly report to Council.

It is noted that Council complied with the Act.

4.2 ISSUE

That all officer reports include details of voting requirements and Council adopts the practice of recording the number of votes counted for and against a motion in the minutes.

RESPONSE

The officer reports do not provide advice on voting requirements where a simply majority is required. The practice is to identify the issues where absolute or special majority is needed.

A list of Local Government Act provisions requiring absolute or special majority, has been provided to appropriate staff.

The number of votes counted for and against a motion, will be in future included in the minutes.

- (5) detail the number of votes for and against a motion, be recorded for all future meetings.

COUNCIL DECISION

Background

The Terms of Reference for the inquiry into Council, required that a Compliance Assessment be undertaken by the Local Government Department.

Submission

A copy of the report from the Department, is attached to the Agenda.

The Executive Director has advised that the "*report finds a high level of compliance however, there are a number of areas of non-compliance*".

Report

Two officers from the Department undertook the assessment in January 1999. They worked in the Administration building for five(5) days.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Nil

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

Nil

18.3 (OCM2_5_1999) - REPORT OF THE INQUIRY INTO THE CITY OF COCKBURN - DEPARTMENT OF LOCAL GOVERNMENT (1335) (RWB)**RECOMMENDATION**

That Council:

- (1) advise the Department of Local Government of the following actions, outcomes or comments relating to the Recommendations in the Report on the Inquiry into the City of Cockburn:

Report Recommendation

6.1.2.1.1. *That the Council should seek training for the elected members in the area of their roles and responsibilities. When arranging training for the elected members, the Council should not limit that training to the division of responsibilities but should take the opportunity to review all of the requirements of the elected members and include training in areas such as performance review, meeting procedure, strategic planning, policy development, ethics in local government etc.*

Response

Advice on appropriate training for Councillors will be provided to Council following the next Local Government Election. Councillors were previously provided the opportunity for training.

Report Recommendation

6.2.2.1. *That the Council should be reminded of the recommendations of the Royal Commission into the City of Wanneroo and specifically, that the existence of factions should*

not be expressly or by implication condoned and that the dangers of factionalism and the need for independent judgement should be emphasised.

Response

The training program for Councillors pursuant to recommendation 6.1.2.1.1. should include discussion on factions and a review of the recommendations of the Royal Commission into the City of Wanneroo.

Report Recommendation

6.3.2.1. *That the Council quickly arranges training in chairmanship and meeting procedure for all of the elected members. The provisions of the Standing Orders should be strictly enforced and all of the elected members should support the persons presiding at meetings of the Council and Committees and ensure appropriate standards of behaviour are observed.*

Response

A training program as per recommendation 6.1.2.1.1. will be offered to Councillors.

Report Recommendation

6.3.2.2. *That the Standing Orders should address the matter of inappropriate behaviour and provide the mechanism for dealing with elected members who do not behave in an acceptable manner.*

Response

The Council will be considering the adoption of new Standing Orders at its meeting of the 25th May 1999. These Standing Orders address the issues identified.

Report Recommendation

6.4.2.1. *That the Council should quickly arrange training in chairmanship and meeting procedure for all of the elected members. The training should include and emphasise the need for elected members to properly prepare themselves for attendance at meetings.*

Response

Training program as per recommendation 6.1.2.1.1. will be offered to Councillors.

Report Recommendation

6.4.2.2. *That alternative procedures for displaying the motions and amendments to motions on the large screen in the meeting place should be examined and the requirement that the public should be able to see the motions proposed should also be considered.*

Response

In considering the adoption of new Standing Orders, Council will consider including a requirement for Councillors to submit alternative recommendations in writing (the Report raised the issue prompting this response).

The provision of equipment to enable the public to see proposed motions, will be investigated and further considered by Council.

Report Recommendation

6.5.2.1. *That the Council take action to ensure there is no perception that decisions are taken or implied at the workshops and briefing sessions.*

Response

The report has found no evidence that decisions are taken or implied at workshops or briefing sessions.

This particular point will be included in Councillors training and induction.

The issue will be drawn to the Elected Members' attention.

Report Recommendation

6.5.2.2. *That Council members be reminded of the importance of considering each application on its merits and to be careful in the manner in which they react to lobbying.*

Response

This point will be included in Councillor training and induction.

The issue will be drawn to Elected Members' attention.

Report Recommendation

6.6.2.1. *That the Council and the CEO establish a dispute resolution procedure to ensure differences between elected members and staff are quickly identified and effectively resolved.*

Response

A procedure will be developed and included in Council's Standing Orders.

Report Recommendation

6.6.2.2. *That the CEO, in conjunction with the Council, establish an arrangement for ensuring the elected members are kept informed of the stage reached in the implementation of any particular decision of the Council; such an arrangement may already be in place however, it must be understood and supported by the elected members.*

Response

A management system is in place which summarises the action taken by staff.

Training on access to the system will be instigated for elected members. They have been previously advised in writing on access to the system.

Report Recommendation

6.6.2.3. *That the need for an improved method of assessing the performance of the CEO be addressed. There is reference to this requirement in later recommendations.*

Response

Council, at its meeting of the 16th March 1999, resolved to adopt a performance review system for the CEO based on the model produced by the Western Australian Municipal Association.

Report Recommendation

6.7.2.1. *That the Council Working Party that has made recommendations with regard to Standing Orders, Policies, Delegations and other matters, be given the additional responsibility of reviewing the form and style of the officers reports to Council with the aim of ensuring the reports are of a standard that will satisfy the elected members.*

Response

The Working Party was primarily established to consider the Council meeting structure. It is not intended to re-appoint the Working Party.

It is to be noted that an assessment of agendas/reports undertaken by the Local Government Department in August 1998 noted Council's reports as being of a 'Good Standard'.

Council members will be surveyed as to the adequacy of the reports.

Report Recommendation

6.7.2.2. *That any problems with regard to the quality of the officer's reports presented to the meetings of the Council should be raised with the CEO as they occur.*

Response

The procedure to be developed under 6.6.2.1 will be used as the vehicle for raising concerns on the standard of reports.

Report Recommendation

6.7.2.3. *That the quality of the information and advice provided by the staff be included as an item in the criteria for the CEO performance review process.*

Response

The performance review system of the CEO will include this item.

Report Recommendation

6.8.2.1. *That the Council, in conjunction with the Department of Local Government, establish a method for conducting an annual review of the performance of the CEO that addresses the statutory functions attached to the position as well as strategic objectives. The method adopted should provide the opportunity for input to the process by all of the elected members.*

Response

A review system based on the Western Australian Municipal Association's model is being developed.

See response to 6.6.2.3.

Report Recommendation

8.23.2.1. *That, in respect of Lot 17, the Council resolve to acknowledge its failure to carry out its role in directing and controlling the affairs of the City in a proper manner and accept responsibility for its failure to properly perform the local government function for the benefit of the residents of the district.*

Response

This matter will need to be considered by the elected members provided the Councillors are re-instated.

Report Recommendation

8.23.2.2. *That, in respect of Lot 17, the Council signify its intention to review this situation and to adopt strategies and policies that will ensure it properly performs its functions in future, and including the immediate priority to the formulation and adoption of suitable and adequate provisions for the prevention of conflict of interest and improper influence in its code of conduct, that are satisfactory to the Minister for Local Government.*

Response

The Code of Conduct will again be reviewed as will the Standing Orders, to include statements relating to conflict of interest.

Report Recommendation

8.23.2.3. *That, in respect of Lot 17, the Council demonstrate to the community its commitment to open and accountable government by implementing the necessary reforms and notifying the public of the actions taken or proposed to be taken, and its acceptance and willingness to implement the recommendations of this report.*

Response

This matter will need to be considered by the elected members provided the Councillors are re-instated.

Report Recommendation

8.24.2.1. *That the Council resolve to acknowledge that, as individual elected members, they have failed to abide by their declaration of office in respect of the issue of Lot 17 Hamilton Road Spearwood, in that the interests of the individual took precedence over the interests of the district, and that a public apology be issued to the electors, residents and ratepayers of the district. The form and text of the apology to be approved by the Minister for Local Government.*

Response

This matter will need to be considered by the elected members provided the Councillors are re-instated.

Report Recommendation

8.24.2.2. *That Councillor Pecotic refrain from personal attacks on members of the staff and provide an undertaking to the Minister for Local Government that he will abide by the Council Code of Conduct.*

Response

Mr Pecotic will need to consider this issue if he is re-elected to Council.

Report Recommendation

8.24.2.3. *That the Mayor, Councillor Grljusich, provide an undertaking to the Minister for Local Government that he will abide by the Council Code of Conduct.*

Response

Mr Grljusich will need to consider this issue if he is re-elected to Council.

Report Recommendation

8.24.2.4. *That the Mayor, Cr Grljusich, acknowledge that he has not properly fulfilled his role as an elected member, or as Mayor, that he has a personal conflict of interest in this matter, and a public apology be issued by him to the electors, residents and ratepayers of the district. The form and text of the apology to be approved by the Minister for Local Government.*

Response

Mr Grljusich will need to consider this issue if he is re-elected to Council.

Report Recommendation

8.24.2.5. *That the Council inform the Minister for Local Government of the actions it intends to take to prevent similar problems arising in future, and provide an undertaking that it will implement and abide by such reforms, to the satisfaction of the Minister.*

Response

This matter will need to be considered by the elected members provided the Councillors are re-instated.

Report Recommendation

8.24.2.6. *That the Council publish the conclusions and recommendations of this report, together with details of the*

actions it has taken to implement the recommendations, in its next Annual Report to the residents, electors and ratepayers of the district.

Response

Council publish the conclusions and recommendations of this report, together with details of the actions which are able to be implemented by Council, under the Commissioners, which are detailed in this response to the Department of Local Government, will be included in the next Annual Report.

Report Recommendation

8.24.2.7. *That the Council encourage the maximum number of electors to participate in the electoral process by adopting Postal Voting for all future elections for the City.*

Response

The issue of Postal Voting will be considered by Council in time for the next elections.

Report Recommendation

8.26.2.1. *That earlier recommendations relating to the establishment of systems for:*

- *Reporting on the implementation of Council decisions;*
- *The review of the performance of the CEO; and*
- *Conflict resolution*

be implemented to the satisfaction of the Minister.

Response

These matters have been dealt with under recommendations 6.6.2.2, 6.6.2.3, 6.8.2.1 and 6.6.2.1.

(2) note the following In regard to comments made in the Report:

- (Page 13 & 29) Records relating to Lot 14 which were held offsite, have been placed in the file. Staff have been instructed to ensure that material is forwarded to the centralised records section for filing and not held onto.
- (Page 18) The opportunity for staff to provide advice at Council meetings, will be provided for in the new Standing Orders.
- (Page 41) Regulation 11(da) now require for Council Minutes to contain reasons for decisions made which significantly differ from the recommendation to be recorded.

Therefore the issue of explanation has been addressed.

- (Page 84) The procedure to ensure that accounts are levied by Council at the same time as accounts are paid, has been reviewed.

The payment has been received from Peremate.

- (3) advise the Department of Local Government of the outcome of issues, as identified in part (1) which require further action by Council as determined.

COUNCIL DECISION

Background

The Report relating to the Inquiry into the City of Cockburn by the Department of Local Government under the provision of Section 8.13 of the Local Government Act 1995, was provided to Parliament on the 20th April 1999.

Submission

Commissioners have been provided with a copy of the Report by the Department of Local Government.

Report

The Report sets out a series of recommendations, all of which have been commented on by way of response in the officer's recommendation on this item.

Whilst a further Inquiry will be held, headed by Mr Neil Douglas, it is considered appropriate to pursue as many of the recommendations as possible which are contained in the report.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Allowance will be made in the 1999/2000 budget towards the cost of a further inquiry together with legal costs.

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

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

20. CONFIDENTIAL BUSINESS

Nil

21. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION

Nil

22. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING

Nil

23. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Nil

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

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.

25. CLOSURE OF MEETING

Nil