

## CITY OF COCKBURN

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# CITY OF COCKBURN

## MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 FEBRUARY 1999 AT 7:30 P.M.

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### PRESENT:

#### COMMITTEE MEMBERS

Mr J Grljusich	-	Mayor
Mr C Elpitelli	-	Councillor
Mrs S Hunt	-	Councillor
Mr S Lee	-	Councillor
Mrs M Separovich	-	Councillor
Mr L Humphreys	-	Councillor
Mr L Howlett	-	Councillor (Departed at 11:35pm)
Mrs N Waters	-	Councillor
Mr M Pecotic	-	Councillor
Mr B P Wheatley	-	Councillor
Mr J Gianoli	-	Councillor
Mr J McNair	-	Councillor (Departed at 11:35pm)

#### IN ATTENDANCE

Mr R W Brown	-	Chief Executive Officer
Mr D M Green	-	Director Community Services
Mr A T Crothers	-	Director, Finance & Corporate Services
Mr S M Hiller	-	Director, Planning & Development
Mr S Ryan	-	Manager, Planning
Mr J Radaich	-	Acting Director, Engineering
Mrs S Ellis	-	Secretary to Chief Executive Officer
Mr M Winchester	-	Customer Services Manager (Departed at 9:30pm)
Ms M Finucane	-	Promotions & Liaison Officer

The Presiding Member declared the meeting open at 7:30pm and welcomed the press from the Cockburn Herald and Cockburn Gazette.

Mayor Grljusich read aloud, a written declaration of financial interest from Cllr Gianoli in regards to CDC items 9.3 and 10.1 and Council Agenda Items 9.1, 9.2, 9.3 and 9.4.



**1. APPOINTMENT OF PRESIDING MEMBER [IF REQUIRED]**

Nil

**2. PUBLIC ADDRESS SESSION**

**Mr Claude Della-Bona**, representing his father and other affected land owners, wished to ask some questions relating to the Packham Urban Development Area and reimbursement for public open space wetland contributions. He tabled a number of questions and requested both a comprehensive verbal and written response to each question.

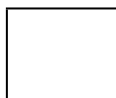
Prior to asking the questions, he sought the Mayor's assurance that no legal action would be taken against him in respect of the questions. The Mayor advised that whilst a legal opinion was sought on Mr Della-Bona's comments at the January meeting, the legal opinion was that they were not offensive and it was very unlikely that legal action will be taken however, the Council may make a decision on that in the future.

Q Please advise me if any legal advice has either been sought and or in fact received in respect of the my factual statement, which was endorsed by the landowners, and presented in good faith at the Council meeting of 19 January 1999? If received please advise of the outcome of such legal advice. I also seek a copy of the said advice, the cost of which I have contributed.

A Mr Brown, Chief Executive Officer, advised Council has received written advice however, giving a copy to Mr Della-Bona is not appropriate and Mr Della-Bona's letter will be addressed in writing by the Administration.

Q If so, please advise:  
a) who authorised the request for advice?  
b) on what basis was the legal advice sought?  
c) has legal advice been sought in relation to any of the matters raised by the many other POS speakers at the Council meeting of 19 January 1999, or any related POS matter upon which a ratepayer has spoken, since the origins of this issue?

A Mr Brown advised the legal advice was sought under the Council Policy for administration to seek advice if it feels necessary. The second answer to the question is "no".



- Q The amount of ratepayers money spent on seeking legal advice in respect of the POS or related issues?
- A Mr Brown advised he could not answer that. If Council wants the staff to research that information, it could be obtained. Mayor Grljusich advised that Mr Della-Bona would be written to.
- Q Whether a Ratepayer Code of Conduct or similar guideline either currently exists, or is being contemplated, to assist ratepayers and provide quasi-legal guidance in the framing of questions, statements, comments, or requests for information, which are publicly put to elected Councillors in this forum, in respect of the operations of the City of Cockburn?
- A Mr Brown advised not that he was aware. Mayor Grljusich added that it may be a matter that Council wishes to put forward at a future date.
- Q Do Councillors recommend that before ratepayers engage in any discussion in respect of City matters in this forum, that they first seek legal advice?
- A The Chief Executive Officer advised that he could not answer that question on behalf of Councillors. The Mayor added that Council has a policy giving Administration the authority to seek legal advice if necessary.
- Q Has Council sought specific legal advice on the interpretation of section 20C of the TP&D Act as to its obligation to maintain and administer a trust fund in respect of POS funds? If so please provide a copy of such advice.
- A Mr Brown responded "Yes" and if Council wishes, he will respond to Mr Della-Bona with the information.
- Q Is it true within the PDA that when approval to subdivide was given by the WA Planning Commission the Commission approved Cash-In-Lieu funds be given, in line with 20C of the Town Planning and Development Act, by those owners who did not have POS and Drainage attributed to their land within the Packham Structure Plan?
- A Mr Hiller, Director, Planning & Development replied that the Commission puts on a condition that land be given up on all developments. It is up to the three parties WAPC, Council and applicant to agree to pay the POS money.



Q If this is the case have these POS cash-in-lieu monies been paid into the local government, in this case the City of Cockburn, in accordance with section 20C of the Town Planning and Development Act. If no why not?

A Mr Hiller replied "Yes", for those people not participating in the Urban Focus arrangement. Those people have contributed to the POS in accordance with the Act.

Q Why hasn't the City of Cockburn adhered to the decision reflected in Minutes dated 6 June 1989 and adopted by Council, which directed that the Council would hold in trust monies collected in respect of POS cash in lieu payments, in line with section 20C of the TP&D act?

A Mr Hiller advised that the decision of 1989 indicated the Council was prepared to go that way but events in '92 overrode that because an agreement with the land owners was made.

Q Was that officially rescinded if it did not apply?

A Mr Hiller replied that it was not necessary to rescind the decision.

Q Does Council believe it reasonable for ratepayers to expect legal advice to be sought by Council if reasonable grounds are established which clearly indicate mal-administration being perpetrated within the City of Cockburn in regards to the POS and related issues or any other matters generally.

A Mr Brown replied that again, it cannot be answered on behalf of Council but administratively, yes.

Q Please outline the procedures and processes normally undertaken by Council to rectify any situation in which the City Administration has failed to abide by and act upon directives endorsed by the Council as outlined in Council minutes, or has breached a duty of care or has engaged in misleading or deceptive conduct.

A Mr Brown advised there are no guidelines.

Q It is my understanding that Council will initiate an audit in relation to the POS reimbursements in line with a course of action suggested within my statement of 19 January 1999. Is it intended that affected owners will be allowed significant input into the drafting of the audit terms of reference specifically and the audit process generally? If not why not?





- A Mr Brown replied that the draft proposal is before Council tonight. Whether Council is prepared to adopt that proposal is not known at this time. If it is endorsed, it will require the Local Government Department to have input but does not require the affected owners to have input.
- Q Please advise whether and when the City has received any or all of the amount of \$144,977 as listed as per the "Owners POS Reimbursement Schedule" comprising of \$50,637 in respect of Troode St and \$94,340 in respect of Rockingham Rd. If not so received please outline the recovery process that has been initiated to obtain these considerable ratepayers funds.

Clr Humphreys interjected that under the Standing Orders, the Officers are not required nor should be expected to answer these questions verbally and that the questions have been tabled and therefore, should be responded to in writing. He believed that each of the questions should be given on notice. Mayor Grljusich responded that the Chair indicates who will ask the questions and who will answer them.

Moved Clr Humphreys seconded Clr Howlett, for dissent from the Chair on the ruling.

### **MOTION LOST**

Mr Della-Bona asked that his questions be tabled. He requested the Mayor to explain in simple terms, the background and major key points in respect to the POS and the Packham Development. Mayor Grljusich tabled the questions and assured that the Chief Executive Officer would do his best to answer the questions.

The Chief Executive Officer advised that it would be in order for the Mayor to respond to Mr Della-Bona's request even though Mayor Grljusich has a financial interest in the matter. Mayor Grljusich gave an overview of how the development came about, the arrangements made between the land owners and the developers and the situation as it currently stands to the best of his knowledge.

**Mr Richard Graham** tabled a petition of 172 signatures urging the Council to take steps to ensure that the proposed Kenwick to Mandurah rail link does not encroach on, or impact upon, their homes. The Mayor advised that the railway is projected to start "earlier rather than later" and has been discussed at the appropriate Committee.



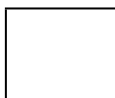
**Mr Terry Battalis**, regarding Council Agenda Item 9.1, stated that one of the Councillors who signed the rescission notice against this item was not present at this Council meeting and therefore, asked if the matter could still be discussed. The Chief Executive Officer advised that the matter could still proceed. Mr Battalis then asked Council to consider deferring the matter to allow all Councillors to be present.

Mr Battalis then spoke in relation to the Packham Urban Development Area and asked if Council had considered making an ex-gratia payment to residents that equals the payment in the POS trust and suggested this may be a better way of dealing with this matter so that the residents are dealt out the money that they are due. He asked what is the process to deal with the matter in that way? The Mayor advised that the Chief Executive Officer would take his statement on board when the matter is discussed.

**Mr Kevin Bucat** read a letter addressed to the Chief Executive Officer which asked if it was "normal practice in the Cockburn Council, for the Mayor to verbally abuse a ratepayer after a full Council meeting for no apparent reason whilst in the company of other ratepayers and Councillors." The Chief Executive Officer responded that it was not the practice. Mayor Grljusich queried to whom Mr Bucat was referring, Mr Bucat answered that it was the Cockburn Mayor. Mayor Grljusich further responded that he did not believe he had abused Mr Bucat at any time and was prepared to have a meeting to discuss the matter.

**Mr Peter Webb**, regarding CDC Item 9.6, wanted to thank the Committee and staff for supporting the development and wished to respond to some concerns. He felt that the proposal put to Council is more attractive than those approved by Council some time ago. Also, that the residential component would provide more security in the locality and that the service and trades vehicles would not be a factor. He wanted to mention that the recommendation included a 6m wide pedestrian accessway and requested that Council remove the condition because there were a lot of costs involved and not many benefits. The Director, Planning & Development responded that a 6m walkway was included to allow access for the residents of Fortini Road.

**Mr Bill Bennett**, representing the residents of Fortini Court, queried whether a petition had been tabled at this meeting from the residents and also letters from residents against the development. The Manager, Planning advised that the petition with 72 signatures and a summary schedule of submissions received, was attached to the CDC agenda. Mr Bennett commented that this proposal is R60 density which was previously rejected by Council and asked why Council had changed its mind. The Manager, Planning explained that the previous shopping centre development proposal included sites for the R60 residential but had no details on how they would be developed. The Council in its



previous decision, was comfortable with the shopping centre but wanted more details for the other part.

Mr Bennett stated that previous plans were for 2 storey units and asked what was the difference between 2 storey units and 2 storey townhouses. The Manager, Planning explained that units are like a flat and townhouses come under the R60. Mr Bennett urged Council to reconsider the proposal as the residents did not want more units in the street.

### **3. WRITTEN REQUEST FOR LEAVE OF ABSENCE**

Nil

### **4. CONFIRMATION OF MINUTES**

#### **4.1 (OCM2/99) - ORDINARY MEETING OF COUNCIL - 19/1/99**

Moved Clr Lee seconded Clr Pecotic, that the Minutes of the Ordinary Meeting of Council held on the 19<sup>th</sup> January 1999 be confirmed as a true and accurate record.

**CARRIED**

#### **4.2 (OCM2/99) - SPECIAL MEETING OF COUNCIL - 20/1/99**

Moved Clr Lee seconded Clr Humphreys, that the Minutes of the Special Meeting of Council held on the 20<sup>th</sup> January 1999 be confirmed as a true and accurate record.

**CARRIED**

### **5. APOLOGIES AND LEAVE OF ABSENCE**

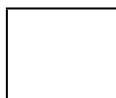
Clr R. Lees - Apology

### **6. ADDITIONS TO THE AGENDA**

Clr Pecotic requested that the following items be added to the Agenda:



1. Payments for Public Open Space (P.O.S.) to landowners in the Packham Development Area who contributed their land for POS in excess of 10% requirement (to be put on agenda after revocation motion for item 9.6 OCM 1/99).
2. That Council authorise Electoral Commission to conduct all future Local Government Elections in Cockburn.
3. That Lot 76 Birchley Road, Yangebup land valuation negotiations be presented to the Council. That V & D Dropulich's valuer and Council's valuer negotiations and adjustments also be presented to the Council. That Council consider all the above and conclude the land purchase.
4. That legal opinion policy be changed to give Councillors needed control over solicitors selections and questions to be asked.
5. That Council seek another opinion from an experienced QC via different solicitor regarding the Packham Development Area Public Open Space and that terms of reference be prepared with input of all Councillors.
6. That current charges for Civic Centre Hall and all other Community halls be regularly advertised.
7. That Council resolve to declare City Centre between Phoenix Road, Gerald Street, Spearwood Avenue and Sussex Street and that model for City Centre be commissioned within 6 months.
8. That Council prohibit usage of answering machine system and that all telephone extensions be without display in order to avoid discrimination.
9. That Council put in the telephone book, White Pages, CEO's and Directors telephone numbers.
10. That the phone numbers of all rangers on duty be available to all Councillors and Directors who have the right to direct rangers.
11. That Ordinary Council Meeting of 16/2/1999 be recorded and tapes be put in a safe place for future use.
12. If Packham Development Area POS payments to the landowners who contributed their land for POS in excess of the 10% requirement, is not resolved at this meeting than a special council meeting is to be held within 7 days for the same purpose.



13. That His Worship the Mayor John Grljusich be permitted to talk on Packham Development Area POS issues as he is the most experienced Councillor about planning matters and that he leaves Council Chambers before vote is to take place. If permission for LGD or Minister is needed, than this is to be obtained before this meeting.

Moved Clr Humphreys seconded Clr Waters, that those matters listed by Clr Pecotic be declared not of an urgent nature and not be placed on the Agenda but be dealt with administratively prior to the next Council Meeting via the appropriate Committees.

### **DECLARATION OF FINANCIAL INTEREST**

**Mayor Grljusich** declared a financial interest in the debate, the nature being that he is a Director of Peremate Holdings who owns land in the Packham Urban Development Area.

**Clr Gianoli** declared a financial interest in the debate, the nature being that he is a partner of Southside Realty and is acting as selling agent for one of the owners in the Scheme.

AT THIS POINT THE TIME BEING 8:32PM, MAYOR GRLJUSICH AND CLR GIANOLI LEFT THE MEETING.

Moved Clr Pecotic, that Clr McNair assume the Presiding Member's position. Clr McNair declined.

Moved Clr Elpitelli seconded Clr Pecotic, that Clr Wheatley assume the Presiding Member's position. Clr Wheatley accepted and assumed the Chair.

**CARRIED**

**MOTION PUT AND CARRIED**

CLR PECOTIC REQUESTED THAT THE VOTES BE RECORDED.

FOR: CLR WATERS, CLR HOWLETT, CLR HUMPHREYS,  
CLR SEPAROVICH, CLR LEE, CLR HUNT, CLR  
ELPITELLI AND CLR WHEATLEY.

AGAINST: CLR PECOTIC AND CLR MCNAIR.



AT THIS POINT THE TIME BEING 8:48PM, MAYOR GRLJUSICH AND CLR GIANOLI RETURNED TO THE MEETING. THE MAYOR RESUMED THE PRESIDING MEMBER'S POSITION.

AT THIS POINT THE TIME BEING 8:48PM, CLR HUMPHREYS LEFT THE MEETING AND RETURNED AT 8:49PM.

## 7. DEPUTATIONS

Nil

## 8. COUNCIL MATTERS

### 8.1 (OCM2/99) - STRATEGIC & POLICY COMMITTEE REPORT - 2/2/99 (1055)

Moved Clr Humphreys seconded Clr Elpitelli, that the report of the Strategic and Policy Committee Meeting held on the 2<sup>nd</sup> February 1999 be received and the following recommendations be adopted:

### 10.1 (SPC2/99) - ULTIMATE STRATEGIC DISTRICT PLAN REVISION (9633) (SMH)

#### COUNCIL DECISION

That Council:

- (1) receive the report;
- (2) adopt the revised Ultimate Strategic District Plan as the basis for the long term planning and development of the district; and
- (3) use the Ultimate Strategic District Plan as the basis to the Local Planning Strategy prepared as a requirement of the Model Scheme Text in support of the proposed Town Planning Scheme No. 3.



**12.1 (SPC2/99) - METROPOLITAN REGION SCHEME PROPOSED AMENDMENT NO. 991/33 - MARINE INDUSTRY TECHNOLOGY PARK - LAND BOUNDED BY FAWCETT ROAD, COOGEE ROAD, FROBISHER AVENUE, ROCKINGHAM ROAD, RUSSELL ROAD AND LAKE COOGEE, MUNSTER - OWNER: VARIOUS (9525)(DW/AB)(MAP 9)**

**COUNCIL DECISION**

That Council:

- (1) forward a submission on Amendment No. 991/33 which deals with the following issues:
1. Drainage
  2. Wetland Buffers and Development Setbacks
  3. Clearing of Native Vegetation
  4. Interface with Future Urban Areas to the North
  5. Location of Marine Industry Training Centre
  6. Widening of Russell Road and Realignment fo the Controlled Access Highway

as outlined in the Officer's Report.

**12.2 (SPC2/99) - SUBMISSION FOR PROPOSED MRS AMENDMENT NO. 1006/33 SOUTH WEST DISTRICT OMNIBUS NO. 4 (91000633) (SA) (ALL)**

**COUNCIL DECISION**

That Council:

- (1) advise the Western Australian Planning Commission (WAPC) of the following:
1. proposals 10, 12, 13, 14, 15, 16 and 17 of the Amendment No. 1006/33 to the MRS (Omnibus No. 4) are supported;
  2. Council objects to proposal 9, the transfer of Loc 4252 Murdoch Drive, Locations 4003 and 4253 Farrington and portion of Farrington Road road reserve, Murdoch from Public Purpose reservation (Hospital) to Urban Zone (DZS No.2 R36727); and
  3. a copy of the Agenda report to the WAPC is forwarded for its information.

**14.1 (SPC2/99) - AMENDMENTS TO ENVIRONMENTAL PROTECTION ACT 1998 - OFFENCES AND PENALTIES (9105) (DW)**

**COUNCIL DECISION**

That Council note the information.

**14.2 (SPC2/99) - PROPOSED NEW MUNSTER SEWERAGE PUMP STATION AND BIBRA LAKE MAIN SEWER EXTENSION (9100) (WATER CORPORATION) (MAP NO. 9) (COASTAL)**

**COUNCIL DECISION**

That Council:

- (1) advise the Water Corporation that:-
1. its preferred option for the proposal is the location of the new pump station on the western side of Lake Coogee with the main sewer alignment within the proposed Beeliar Drive road reservation;
  2. that given the constraints associated with the use of the Beeliar Drive road reservation, that the proposed low bridge route is acceptable;
  3. the construction of the additional pump station on the western side of Lake Coogee and associated storage facilities be brought forward as a matter of priority along with the decommissioning of the existing Munster Pump Station site;
  4. the areas of the historic lime kilns and wetland and other native vegetation present on the existing Mayor Road Pump Station be incorporated into the public open space associated with Market Garden Swamp No. 2;
  5. the disposal of groundwater from dewatering be carried out by means which do not include the disposal of groundwater to Lake Coogee;
  6. the Water Corporation contribute to management works around Lake Coogee associated with the implementation





of the Lake Coogee Environmental Management Plan;

7. landscaping and revegetation be carried out to Council's satisfaction in order to minimise the visual impact of the main sewer and pump station on local residential areas;
- (2) require the Manager - Environment to prepare a submission on technical aspects of the PER on behalf of Council.

### 17.1 (SPC2/99) - GRAFFITI POLICY (8955) (RA)

#### **COUNCIL DECISION**

That Council adopt the following Policy – E8.1 GRAFFITI REMOVAL:-

- (1) Graffiti of an offensive nature will be removed from Council property within 1 working day of notice being provided to Council;
- (2) Graffiti of a non offensive nature will be removed from Council property within two (2) working days of notice being provided to Council;
- (3) the determination of what constitutes offensive graffiti will be determined by the Maintenance Manager;
- (4) in the case where graffiti is in public view on private property Council will notify the owners of the property seeking their co-operation in having the graffiti removed promptly;
- (5) all graffiti on Council property be photographed and the Police Department's Graffiti Incident Report pro-forma is forwarded to the Police Department;
- (6) Council's Building Maintenance Budget provide funds for anti-graffiti treatment to be applied to surface as deemed necessary, in accordance with this Policy.

### 17.2 (SPC2/99) - NATIVE FAUNA PROTECTION POLICY (6119) (DW)

#### **COUNCIL DECISION**

That Council:



- (1) amend Policy PD8 - Bushland Conservation Policy by deleting section 2.7 - Protection of Bandicoots;
- (2) adopt Policy 42 - Native Fauna Protection Policy, in accordance with the attachment to the Agenda.

**CARRIED**

AT THIS POINT THE TIME BEING 8:50PM, CLR PECOTIC MOVED THAT COUNCIL AGENDA ITEM 9.2 BE DEALT WITH AT THIS POINT

**MOTION LAPSED DUE TO LACK OF A SECONDER**

**15.1 (SPC2/99) - NEW FIRE SERVICE LEVY - PROPOSED SERVICE CHARGE FOR VOLUNTEER BUSHFIRE BRIGADES (1554) (1556) (ATC)**

**COUNCIL DECISION**

Moved Clr Elpitelli seconded Clr Pecotic, that the recommendation be deleted.

**MOTION WITHDRAWN WITH PERMISSION OF COUNCIL**

Moved Clr Humphreys seconded Clr Waters, that:

- (1) Council impose a service charge in respect of volunteer bushfire brigades costs on owners of property outside the permanent Fire District;
- (2) the amount of the service charge be based on the Unimproved Valuation of the property owned; and
- (3) the amount of the service charge levied be based on recovering the costs which apply specifically to the operations of the Cockburn Volunteer Bushfire Brigades.
- (4) affected ratepayers be advised immediately of this change.

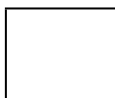
**CARRIED**



## 15.2 (SPC2/99) - BUDGET REVIEW (5402) (ATC)

<b>COUNCIL DECISION</b>			
Moved Clr Waters seconded Clr Lee, that the Municipal Budget be adopted as follows:			
<b>ACCOUNT NO.</b>	<b>DESCRIPTION</b>	<b>EXISTING BUDGET</b>	<b>PROPOSED BUDGET</b>
		<b>\$</b>	<b>\$</b>
	<u><b>INCOME</b></u>		
100000	General Rates	14,204,000	14,254,000
105131	Interest Municipal Investments	700,000	660,000
500100	Zoning Statement Fees	21,000	30,000
500101	Subdivision Clearance Fees	28,000	40,000
500102	Development Application Fees	38,000	45,000
480070	Rubbish Removal Charges	2,715,000	2,766,000
485090	Rubbish Tip Fees	1,735,000	1,935,000
845090	Sale of Limestone ex Tip	185,000	50,000
650050	Contribution MRWA North Lake Rd Mtce	28,000	24,900
690030	Regional Road Funds Direct Grant	125,000	122,518
690031	Regional Road Funds Project Grant	776,700	726,667
870111	Supervision Fees	30,000	80,000
560090	Weights Gym Fees	1,500	2,000
560092	Recreation Centre Charges	19,000	43,400
575040	WAPC Grant Yangebup/Little Rush Lakes	0	107,580
	<u><b>EXPENDITURE</b></u>		
110424	Emergency Services Function	13,000	16,000
625310	Cultural/Arts Centre Working Party Expenses	2,705	0
625501	Atwell Community Arts Project	3,000	0
315533	Disabled Sports Carnival Tasmania	10,000	1,000
115800	Direction Signs Administration Building	18,663	22,800
315567	Underwrite Atwell Community Centre Management	15,000	0
110700	Furniture & Equipment	18,400	24,400
872321	Title Searches Land Administration	5,000	10,000
115200	Salaries (Administration)	243,095	280,000
725601	Naval Base Cliff Stabilisation	97,959	40,000
NEW	Community Work Orders/Dole Expenses	0	10,000
NEW	RSPCA Donation re Rates	0	3,225
NEW	Centenary Plaques for South Fremantle Football Club	0	3,350
NEW	Printing Corporate Strategic Plan	0	3,500
NEW	Packham POS Consultant	0	10,000
500323	Major Project Facilitator	15,000	5,000
500315	Town Planning Studies	25,000	35,000
NEW	Software costs Town Planning	0	3,000
495466	Ribbons of Blue	2,000	1,000
200320	Legal Expenses (Health)	9,000	11,000

495472	South Lake Drainage Study	11,166	0
495460	Clean Seas Program	6,785	0
495462	Coastal and Marine Planning	8,350	0
480467	Rubbish Removal Domestic	617,100	655,100
480469	Rubbish Removal Commercial	116,904	129,904
480468	Greenwaste Bulk Pickup	76,041	99,300
480463	Annual Junk Collection	40,885	45,900
485811	Cover (of tipface)	30,000	45,000
575757	Gerald Rd Sump Modify Reticulation	5,000	0
575758	Rotary Park Lookout Reticulation	5,000	0
575762	Deepdene Park Play Equipment	10,000	9,000
575763	Dubove Park Replace Play Equipment	15,000	17,000
575766	Len McTaggart Park Play Equipment Decking	2,500	1,500
575767	Atwell Community Bldg Play Equipment	20,000	19,000
575792	Manning Park Picnic Shelters	8,000	6,000
575797	Park Signage Program	10,000	16,000
575799	Park Gate/Access Upgrade	5,000	5,500
575800	Marban Way Asphalt Under Standpipe	5,000	3,000
575803	Rotary Park Lookout BBQ Lighting	1,500	0
575834	Southwell POS Reticulation & Fencing	19,076	14,676
575912	Jarvis Park Landscape & Fencing	8,205	9,705
575915	Manning Park Boundary DUP	10,132	15,132
575968	Horticultural Inspection & Report	0	7,900
650467	North Lake Rd Maintenance	26,810	23,710
695823	North Lake Rd Area Works	190,281	242,613
695864	Redmond Rd School Parking	30,051	26,232
695867	Spearwood Ave/Wellard St Treatment	22,757	19,879
695874	Erpingham Rd Traffic Device	9,418	10,029
695881	Doolette St/Spearwood Ave Drainage	13,315	19,191
695888	Resurfacing	927,989	942,989
695894	Deller Dr Traffic Device	10,733	6,090
695896	Barrington St/Dryden St Treatment	9,361	968
695899	Berrigan Dr Left Slip to Turnbull Green	9,075	17,075
695911	Newton St Speed Plateau	21,438	0
695919	Russell Rd (Cockburn/Rockingham) Upgrade	128,858	147,458
695935	Postans Rd Traffic Device	29,027	12,786
695943	Carrington St (Dodd/Forrest) Resurface	75,000	0
695948	Gerald St/Travers St Treatment	15,000	6,797
695959	Yangebup Rd Contribution to Developer	10,000	10,053
695960	Cutler Rd Speed Humps	12,000	15,000
695976	Hamilton Hill Precinct Development	120,000	123,885
500314	Consulting Engineer Road Costs	8,677	12,677
580805	Nicholson Reserve Brickpaving	25,278	0
580813	Administration Centre Lighting/Alarm	5,030	235
580814	Anning Park Deep Sewerage	6,000	10,000
580816	Jandakot Hall Deep Sewerage	6,000	10,000
580843	Bibra Lake East Toilet Block	10,064	0
580851	Baker Square Toilet Block	19,674	0
580862	Ethel Cooper Kindergarten Sewer Connection	3,038	3,747
580870	Coogee Beach Ablution Disabled Access	6,782	9,700
580876	General Provision for Disabled Access	31,421	54,105
NEW	Baker Square Toilet Removal	0	8,000
NEW	South Lake Child Care Clinic Air Conditioning	0	4,000
NEW	Joe Cooper Centre Replace Air	0	4,500



	Conditioning			
NEW	Coolbellup Tennis Courts Floodlight Upgrade	0		8,000
680900	Azelia Rd	10,500		9,647
680902	Beeliar Drive	4,500		3,220
680903	Blato Place	8,900		8,415
680905	Cedar Court	2,800		0
680906	Cervantes Loop	21,500		14,642
680911	Escalus St	13,300		9,660
680918	Letizia Court	1,500		214
680919	Malvolia Rd	5,300		3,518
680920	McCaw Mews	5,800		3,705
680921	Milgun Drive	6,300		0
680922	Mollica Court	3,700		2,168
680923	Mudlark Way	5,000		9,263
680927	Osprey Drive	30,000		14,361
680928	Peel Rd	11,000		5,500
680931	Rinaldo Cres	25,000		17,000
680934	San Miguel Drive	15,800		6,320
680935	Shelley Way	5,000		11,000
680936	Showell St	10,000		0
680937	Simons St	20,800		18,000
680939	Sudlow Rd	35,000		39,700
680941	West Churchill Ave	14,200		20,200
680938	Stook Court	8,900		0
680836	Slab Replacement Program	44,635		89,562
NEW	Footpath Cordelia Ave -Coolbellup to Prospero	0		9,000
NEW	Footpath Phoenix Rd - Cnr Deller & Sudlow	0		6,000
610710	Closed Circuit TV Surveillance	3,632		0
605721	Library I.T.	0		3,632
560200	Salaries	22,000		25,564
560210	Superannuation	1,540		1,789
560270	MWA/SECWA Charges	3,900		3,000
560230	Communication Costs	4,500		2,500
560350	Advertising	6,000		4,000
730200	Salaries	252,010		262,000
575965	Yangebup/Little Rush Implement Plan	0		107,580
873290	Conferences	1,000		2,500
873463	Mainframe Link to Property Database	42,500		52,500
873464	Database Designs/Entry Screens	25,000		30,000
873465	Asset Management Data Collection	29,982		39,982
590270	Gas Heating	80,000		100,000
580873	South Lake Leisure Centre Access Improvements	10,127		22,127
590751	Pool Walkway	15,000		0
NEW	Security Cameras South Lake Leisure Centre	0		15,000
315579	Cockburn Community Care- EBA Contribution	5,983		8,949
NEW	Install Air Conditioning Hamilton Road House	0		6,218
110461	District Promotion	46,500		54,500
115700	Furniture & Equipment (Administration)	22,200		25,200
NEW	Internet Launch	0		1,500
8284	1AFM129 Leyland Bus	3,974		6,000
8060	7DF148 Merc. Water Truck	13,073		16,100
160232	Jandakot VFB Pager Costs	2,500		3,625

Coogee Beach Jetty Reserve Fund	0	53,684
Rubbish Development Reserve Fund	800,000	746,316
Facsimile Machine for the Mayor's Secretary		1,000
Installation of Pipeworks for the spa pools at the South Lake Leisure Centre		20,000
Playground equipment at Pausin Crescent		15,000

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL**

**16.1 (SPC2/99) - FACSIMILE EDITION - COCKBURN : THE MAKING OF A COMMUNITY (760500) (DKF)**

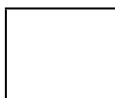
**COUNCIL DECISION**

Moved Clr Pecotic seconded Clr Elpitelli, that:

- (1) Council include two pages of corrections in the Facsimile Edition of Cockburn : the making of a community, and glue these pages on two blank pages at the beginning of each book before the books are distributed;
- (2) Council prepare the contents of the corrections in conjunction with and approval of the members of the Croation Research Group;
- (3) Council send letters of gratitude to all members of Croation Research Group for their hard work in making the necessary historical corrections in the Facsimile Edition of Cockburn: the making of a community book;
- (4) Council not make any further reprints of Cockburn: the making of a community book;
- (5) Council put funds on the 1999/2000 Budget for commission and printing of a Cockburn history book which would include research from all migrant communities;
- (6) this unauthorised print of the facsimile edition of Cockburn: the making of a community, only be distributed if changes are made as per item (1) above.

**MOTION LOST**

Moved Clr Lee seconded Clr Waters, that Council:



- (1) lift its prohibition on the public distribution of the facsimile edition of Cockburn: the making of a community;
- (2) place on the 1999/2000 Budget for consideration, funds to commission a new history book for the City of Cockburn.

**CARRIED**

## 8.2 (OCM2/99) - COMMUNITY DEVELOPMENT COMMITTEE REPORT - 9/2/99 (1052)

Moved Cllr Howlett seconded Cllr Humphreys, that the report of the Community Development Committee Meeting held on the 9<sup>th</sup> February 1999 be received and the following recommendations adopted:

### 7.1 (CDC2/99) - SUBMISSION FOR PROPOSED MRS AMENDMENT NO. 991/33 - SOUTH WEST DISTRICT OMNIBUS NO. 3B (9099133) (SA) (ALL)

#### **COUNCIL DECISION**

That Council:

- (1) advise the Western Australian Planning Commission (WAPC) of the following:
  - 1. proposals 3, 4, 5, 8, 9, 11, 21, 22 and 23 of the Amendment No. 991/33 to the MRS (Omnibus No. 3A) are supported;
  - 2. proposal 7 is supported with modification;
  - 3. object to proposal 6; and
- (2) forward a copy of the Agenda report to the WAPC for its information.



**7.2 (CDC2/99) - PROPOSED MODIFICATIONS TO AMENDMENT NO. 172 TO DISTRICT ZONING SCHEME NO. 2 - HERITAGE PROVISIONS (92172) (SA) (ALL)**

**COUNCIL DECISION**

That Council:

- (1) advise the Western Australian Planning Commission (WAPC) of the following in regard to the proposed modifications to Amendment 172:
  1. it adopts the modification to delete Clause 5.8.3 (Management Categories);
  2. is not prepared to adopt the modification to delete Clause 5.8.7(a)(ii) regarding felling or damaging of any trees listed;
  3. it adopts the modification to delete Clause 5.8.7(e) regarding compensation for heritage provisions;
  4. it adopts the modification to modify Clause 5.8.10 by limiting the density bonus to up to 50%;
  5. requests the WAPC and the Hon. Minister for Planning to support the modifications to Clause 5.8.6(a) by inserting "the Management Categories assigned to any Place and" after the words "Council shall have regard to".

**8.1 (CDC2/99) - PROPOSED SUBDIVISION/DEVELOPMENT OF PART AMCOR LAND - CORNER NORTH LAKE AND PHOENIX ROADS, BIBRA LAKE (1101294) (AJB) (NORTH) (MAPS 7, 8, 13 & 14)**

**COUNCIL DECISION**

That Council:

- (1) endorse the following principles for the subdivision and development of the Amcor land:
  1. Retention of upland vegetation around South Lake to maintain its visual and ecological integrity.
  2. Retention of mature trees in a landscape strip along





North Lake Road and Phoenix Road frontages.

3. Provision of a road system linking North Lake Road with Spearwood Avenue, Sudlow Road and potentially Cocos Drive to the south.
  4. No direct lot frontage will be permitted to North Lake or Phoenix Roads.
  5. The potential for road access to Phoenix Road needs to be carefully examined before any approval is granted.
  6. A service road is to be provided along a portion of the disused railway reserve along the southern boundary of the land.
  7. Lots are not to back onto South Lake reserve or Phoenix/North Lake Road.
  8. An estate development plan and development guidelines are required.
  9. The discharge of drainage into South Lake or its buffer area will not be permitted and the development will need to be implemented in a manner which will not adversely impact on the water quality or hydrology of the lake.
  10. Subdivision requirements will include underground power and high quality estate perimeter fencing.
  11. Subdivision of the land into superlots will not be supported **except to enable the excision of the lot for the Amcor factory from the balance of the site.**
- (2) provide a copy of the Agenda report to Amcor, their agent and prospective purchasers of the land;
- (3) review the principles following advice from the Ministry for Planning regarding the request for the inclusion of part of the land around South Lake in Bush Plan.



**9.1 (CDC2/99) - PROPOSED HOME OCCUPATION (COURIER BUSINESS OFFICE) - LOT 867, 18 SHADWELL RETREAT, ATWELL - OWNER/APPLICANT: B L ANDERSON (5516437) (MT) (EAST) (MAP 20)**

**COUNCIL DECISION**

That Council:

- (1) refuse the application for a Home Occupation (Courier Business) on Lot 867; 18 Shadwell Retreat for the following reason:
  1. The business will generate a volume of traffic that will prejudice the amenity of area.
- (2) issue a Form 2 Refusal to Commence Development to the applicant;
- (3) advise those who made a submission of Council's decision accordingly;
- (4) in the event that the owner has not ceased the use within 60 days of the Council decision, or within 60 days of Ministerial Appeal determination, prosecution action be initiated via Council's solicitors.

**9.2 (CDC2/99) - PROPOSED USE NOT LISTED (COMMUNITY FOOD CENTRE FOR ST. VINCENT DE PAUL) - LOT 50 PHOENIX ROAD, BIBRA LAKE - OWNER: ALOMARL PTY LTD - APPLICANT: SOCIETY OF ST VINCENT DE PAUL (1100005) (SA) (NORTH)**

**COUNCIL DECISION**

That Council:

- (1) grant its approval to the proposed community food centre subject to the following conditions:-

Standard Conditions

  1. Standard conditions contained in Council Policy PD 17 (adopted 15 December 1998) as determined appropriate to this application by the delegated officer under clause 7.6 of the Town Planning Scheme - District Zoning Scheme No. 2;



- (2) issue a MRS Form 2 Notice of Approval valid for a period of 24 months.

**9.4 (CDC2/99) - REVIEW OF QUARRIES FOR YEAR 1998  
(VARIOUS) (CC) (COASTAL)**

**COUNCIL DECISION**

That Council receive the Extractive Industries Review 1998.

**10.2 (CDC2/99) - NON COMPLIANCE WITH CONDITIONS  
OF DEVELOPMENT APPROVAL (SAND  
EXTRACTION) - LOT 130 CNR JANDAKOT & FRASER  
ROADS, JANDAKOT - OWNER: VINCENT NOMINEES  
- APPLICANT: NLG SAND SUPPLIES (5513178) (CC)  
(EAST) (MAP 19)**

**COUNCIL DECISION**

That Council advise the owner/occupier of the land, NLG Sand Supplies that:

- (1) use of Lot 130 Fraser Road, Jandakot is in breach of clause 7.2 of the City of Cockburn Town Planning Scheme No. 2 by reason of failure to comply with the following conditions of the Council's Development Approval of 20 November 1998:
1. Condition 15 requiring the owner to submit and implement a plan for screen planting in buffers to Jandakot and Fraser Roads;
  2. Condition 16 requiring the submission of a species list for the annual planting program; and
  3. Condition 17 requiring the submission of a staging plan for topsoil transfer.
- (2) the excavation of sand without having first obtained an excavation licence is a breach of the City of Cockburn Local Laws;
- (3) in the event that the above matters are not fulfilled to the satisfaction of Council officers within 28 days of the date of this notice, a prosecution action will be initiated by Council's solicitors against the landowner/occupier for a breach of the City

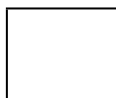
- of Cockburn Town Planning Scheme No.2 and Local Law;
- (4) the carriage and conduct of any proceeding be undertaken in accordance with delegation DA-PD1.

**10.3 (CDC2/99) - NON COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL (SAND EXTRACTION) - LOT 4 ARMADALE ROAD, BANJUP - OWNER/APPLICANT: BORAL BESSER MASONRY (551345) (CC) (EAST) (MAP 20)**

**COUNCIL DECISION**

That Council advise the owner/occupier of the land, Boral Besser Masonry Ltd that:

- (1) use of Lot 4 Armadale Road, Banjup is in breach of clause 7.2 of the City of Cockburn Town Planning Scheme No. 2 by reason of failure to comply with the following conditions of Council's development approval of 17 February 1998:
1. Condition 12 requiring the owner of the land to enter into a deed with the City of Cockburn; and
  2. Condition 6 requiring the owner to lodge an annual report on excavation and rehabilitation prior to the 30 September each year.
- (2) the excavation of sand without the owner having first obtained an excavation licence is a breach of the City of Cockburn-Local Law.
- (3) in the event that the above matters are not rectified to the satisfaction of the Council officers within 28 days of the date of this notice, a prosecution action will be initiate by Council's solicitors against the owner/occupier for a breach of the City of Cockburn Town Planning Scheme No.2 and the Local Law.
- (4) the carriage and conduct of any proceeding be undertaken in accordance with delegation DA-PD1.



**10.4 (CDC2/99) - NON COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL (SAND EXTRACTION) - LOT 2 AND PT LOT 135 ARMADALE ROAD AND LOTS 133 AND 132 JANDAKOT ROAD, JANDAKOT - OWNER: CSR LTD, CSR CONSTRUCTION & READYMIX CONCRETE (5513296) (CC) (EAST)**

**COUNCIL DECISION**

That Council advise the owner/occupier, Readymix Group Ltd and CSR Limited, of the land that:

- (1) the use of Lots 2 and 135 Armadale Road and Lots 133 and 132 Jandakot Road, Jandakot is in breach of the City of Cockburn Town Planning Scheme No. 2 by reason of failure to comply with the following conditions of the Council's development approval of 18 July 1996:
  1. Condition 1 requiring the owner/occupier of the land to submit a detailed staging rehabilitation plan; and
  2. Condition 6 requiring the owner/occupier to enter into a deed with the City of Cockburn.
- (2) the excavation of sand without the owner/occupier having first obtained an excavation licence is a breach of the City of Cockburn Local Laws.
- (3) in the event that the above matters are not rectified to the satisfaction of the Council officers within 28 days of the date of this notice, a prosecution action will be initiated by Council's solicitors against the owner/occupier for a breach of the City of Cockburn Town Planning Scheme No.2 and the Local Law.
- (4) The carriage and conduct of any proceeding be undertaken in accordance with delegation DA-PD1.

**10.5 (CDC2/99) - NON COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL (SAND EXTRACTION) - LOT 146 JANDAKOT ROAD, JANDAKOT - OWNER/APPLICANT: BARELLE PTY LTD (5513162) (CC) (EAST) (MAPS 19 & 23)**

**COUNCIL DECISION**

That Council advise the owner/occupier of the land, Barelle Pty Ltd that:



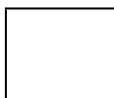
- (1) use of Lot 146 Jandakot Road, Banjup is in breach of clause 7.2 of the City of Cockburn Town Planning Scheme No. 2 by reason of failure to comply with the following conditions of Council's development approval of 18 September 1997:
  1. Condition 2 requiring the owner/occupier to carry out development in accordance with commitments and plans contained within Lindsay Stephens Excavation Management Plan 9 May 1997 or subsequent plan required under the approval;
  2. Condition 6 requiring the owner of the land to lodge an annual report on excavation and rehabilitation prior to September 1998;
  3. Condition 8 requiring adequate warning signs being maintained around the edge of the quarry site;
  4. Condition 10 the storing of materials on site other than those excavated or required for site rehabilitation, and;
  5. Condition 12 requiring the owner of the land to enter into a deed with the City of Cockburn to excavate and rehabilitate the land in accordance with the approval;
- (2) The excavation of sand without the owner having first obtained an excavation licence is a breach of the City of Cockburn Local Law;
- (3) In the event that the above matters are not rectified to the satisfaction of the Council officers within 28 days of the date of this notice, a prosecution action will be initiated by Council's solicitors against the owner/occupier, Barelle Pty Ltd for a breach of the City of Cockburn Town Planning Scheme No.2 and the Local Law.
- (4) The carriage and conduct of any proceeding be delegated to the Manager of Development Services.

### **12.1 (CDC2/99) - AUTHORISED PERSONS - PRIVATE SWIMMING POOL INSPECTIONS (3211) (VG)**

#### **COUNCIL DECISION**

That Council:

- (1) authorise the following Council officers, to inspect private swimming pools within the District of the City of Cockburn for the



purpose of ascertaining whether the requirements of Part 10 of the Local Government Act 1960, Building Regulations 1989, have been complied with as required by Section 245A(5) of the Local Government (Miscellaneous Provisions) Act 1960, namely:

Vincent Green  
 Christopher Paul Paton  
 Vance Thompson  
 Michael Richard Ward

### 13.1 (CDC2/99) - DANGEROUS DOG DECLARATION (SEC. 33E DOG ACT 1976) (1101) (RA)

#### COUNCIL DECISION

That Council:-

- (1) appoint as authorised officers the Manager, Community Services and the Administrator, Ranger Services to declare a dangerous dog pursuant to section 33E of the Dog Act 1976 as amended;
- (2) include in the Register of Delegated Authority the Declaration of a Dangerous Dog;
- (3) charge the owners of Dogs Declared Dangerous an additional fee of \$50 per annum to cover the cost of administration and inspections.

### 15.1 (CDC2/99) - HENDERSON LANDFILL DISPOSAL RATES REVIEW (4900) (RNJ) (COASTAL)

#### COUNCIL DECISION

That Council, pursuant to Part X Division 4 of the City of Cockburn (Local Government Act) Local Laws, adopt the new schedule of rates for disposal of waste at the Henderson Landfill effective from 1st March 1999 as follows:

#### **Trailers**

Per car, utility or trailer not exceeding 1 m <sup>3</sup>	\$11.00
1 - 2.5m <sup>3</sup>	\$27.00
Exceeding 2.5m <sup>3</sup>	\$53.00

#### **Trucks**

Clean Fill	\$16/Load min	\$4.00/tonne
Building &		

Demolition (off liner)	\$16/Load min.	\$11.00/tonne
Putrescible	\$40/Load min.	\$36.00/tonne
Tree Loppings	\$22/Load min.	\$30.00/tonne
Sludge	\$40/Load min.	\$42.00/tonne
<b><u>Asbestos</u></b>		
The Henderson Landfill Site is only authorised by the Department of Environment to accept a maximum of <b>1 cubic metre</b> of asbestos waste. Applicable Tip Fee plus <b>\$50 Burial Charge</b> for Commercial.		
<b><u>When weighbridge is not in use for putrescible and non-putrescible solid waste</u></b>		
Non-compactor truck		\$16.00/wheel
Compactor truck		\$32.00/wheel
<b><u>Rates for disposal of environmentally sensitive, extraordinary or Class II waste is by negotiation.</u></b>		

**17.1 (CDC2/99) - USE OF RESERVES (4802) (RA)**

**COUNCIL DECISION**

That this item be deferred to the next Community Development Committee meeting pending the provision of a list of functions to which the bond would apply.

**18.1 (CDC2/99) - SENSORY PARK (8409) (RA)**

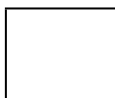
**COUNCIL DECISION**

That Council give support for the development of a Sensory Park to be incorporated into facilities development proposed for Lake Yangebup and consideration be given to funding allocation in appropriate future budgets.

**20.1 (CDC2/99) - REPORT ON THE FINANCIAL STATEMENTS (5505) (NM)**

**COUNCIL DECISION**

That Council receive the Report on the Financial Statements for the month of December 1998.





**20.2 (CDC2/99) - LIST OF CREDITORS PAID (5605) (KL)**

**COUNCIL DECISION**

That Council receive the List of Creditors Paid for January 1999 for information.

**20.3 (CDC2/99) - REQUEST FOR DONATION - COOGEE JETTY TO JETTY (1903; 5003) (KL)**

**COUNCIL DECISION**

That Council donate \$500.00 to the Coogee Jetty to Jetty event.

**CARRIED**

AT THIS POINT THE TIME BEING 9:30PM, THE CUSTOMER SERVICES MANAGER LEFT THE MEETING AND DID NOT RETURN.

**9.5 (CDC2/99) - ACOUSTIC BARRIER FOR LOADING DOCK - LOT 63; 254 ROCKINGHAM ROAD, SPEARWOOD - OWNER: VOLLEY INVESTMENTS PTY LTD - APPLICANT: KEN PATERSON ARCHITECTS (2206913) (MT) (WEST) (MAP 7)**

**COUNCIL DECISION**

Moved Clr Pecotic, that Council

- (1) approve the revised plan as agreed on the site meeting by all parties for 3m high acoustic barrier from the current level on Lot 63, 254 Rockingham Road Spearwood, 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 Council's District Zoning Scheme N° 2;

Special Conditions

2. The acoustic barrier being setback from the adjacent

residential lot not less than 1.0 metre.

**MOTION RULED OUT OF ORDER BY MAYOR**

Moved Clr McNair seconded Clr Wheatley, that this matter be adjourned and discussed after item 9.6 to give Officers time to find the necessary documentation to determine the matter

**CARRIED**

**9.6 (CDC2/99) - PROPOSED R60 RESIDENTIAL DEVELOPMENT - LOT 1000, 4 GRAY COURT & LOT 1001, 98 FORREST ROAD, HAMILTON HILL - OWNER: ABERMAIN NOMINEES PTY LTD - APPLICANT: SPICCA AMBROGIO DESIGN GROUP (22037/2203798) (SA) (WEST)**

**COUNCIL DECISION**

Moved Mayor Grljusich seconded Clr Humphreys, that Council:

- (1) approve the proposed residential R60 development on Lot 1001, 98 Forrest Street & Lot 1000, 4 Gray Court Hamilton Hill subject to the following conditions:

Standard Conditions:

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of the Town Planning Scheme - District Zoning Scheme No. 2;

Special Conditions:

1. A road widening adjacent to the Forrest Road frontage of 60m<sup>2</sup> area is to be ceded free of cost, such land to be in the form of an approximately one (1) metre wide strip and corner truncation between the Fortini Court/Forrest Road intersection and the shopping centre access driveway;
  2. The developer entering into a legal agreement to the satisfaction of Council to ensure the preservation of clear sight lines adjacent to the abovementioned road widening area within the proposed residential lot;
- (2) Council set aside \$45,000 in the 1999-2000 budget for contribution to the Forrest Road traffic management, foot path



and verge upgrading;

- (3) advise those people who made submissions of Council's decision, accordingly.

**CARRIED**

**9.5 (CDC2/99) - ACOUSTIC BARRIER FOR LOADING DOCK - LOT 63; 254 ROCKINGHAM ROAD, SPEARWOOD - OWNER: VOLLEY INVESTMENTS PTY LTD - APPLICANT: KEN PATERSON ARCHITECTS (2206913) (MT) (WEST) (MAP 7)**

**COUNCIL DECISION**

Moved Clr McNair seconded Clr Wheatley, that this matter be deferred pending further research into this matter and re-presentation to Council.

**CARRIED**

**12.2 (CDC2/99) - OVERSIZE RESIDENCE, LOT 403 KOORALBYN VALLEY CRESCENT, JANDAKOT (5518139) (VG/SR)**

**COUNCIL DECISION**

Moved Clr Lee seconded Clr Wheatley, that Council:

- (1) refuse the application to build an oversized residence at Lot 403 Kooralbyn Valley Crescent, Jandakot, for the following reason:
1. Non-compliance with the 50% open space requirement under the Residential Planning Codes.

**CARRIED**



**14.1 (CDC2/99) - NORTH LAKE ROAD WORKS BETWEEN LAKES SHOPPING CENTRE AND OSPREY DRIVE - ADDITIONAL FUNDS (450010) (JR) (SOUTH) (EAST)**

**COUNCIL DECISION**

Moved Clr Humphreys seconded Clr McNair, that Council transfer additional funding of \$123,093, or \$175,425 if the Budget review allocation of \$52,332 is not approved, from the Freeway Feeder Roads Reserve to Account No. 695823 - North Lake Road Area Works and to adjust the Budget accordingly.

**CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**14.2 (CDC2/99) - BEELIAR DRIVE/DANIELSON WAY - REQUEST FOR PROTECTIVE LIMESTONE WALL (450953) (451190) (JR) (COASTAL)**

**COUNCIL DECISION**

Moved Clr Elpitelli seconded Mayor Griusich, that:

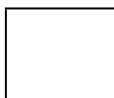
- (1) the wall be extended to the west and east of the existing wall on Beeliar Drive and Danielson Way and that it be constructed in a manner as specified by the Manager Engineering;
- (2) installation of a crash barrier be assessed and determined by Council at a later date;
- (3) a plan be provided to Councillors of this Council and the effected land owners and request that they make any submissions to the Council on any points they have with regards to this matter; and
- (4) if there is conflict between the proposal and the owners, that the matter be referred back to Council.

**CARRIED**

**19.1 (CDC2/99) - TENDER NO. 46/98 (RECALLED) - CONSTRUCTION OF COOGEE BEACH JETTY (1903) (JR) (COASTAL)**

**COUNCIL DECISION**

Moved Clr Pecotic, that Council accept the tender from Marine & Civil Construction Pty Ltd, for Tender No. 46/98 (Recalled) - Construction of Coogee Beach Jetty, in the sum of \$614,833.11.



**MOTION LAPSED FOR LACK OF A SECONDER**

Moved Clr Lee seconded Clr Waters, that Council accept the tender from John Holland Construction & Engineering Pty Ltd, for Tender No. 46/98 (Recalled) - Construction of Coogee Beach Jetty, in the sum of \$686,449 which includes an additional cost of \$2,640 for non-standard fixing plates as contained in Clarification submitted with the tender.

**CARRIED**

**DECLARATION OF FINANCIAL INTEREST**

**Clr Gianoli** declared a financial interest in CDC Item 9.3. The nature being that Southside Realty of which he is a partner, is the leasing Agent for this property.

**Clr Gianoli** declared a financial interest in CDC Item 10.1. The nature being that Southside Realty of which he is a partner, has acted as Real Estate Agents for PMR Quarries and WA Limestone.

AT THIS POINT THE TIME BEING 10:03PM, CLR GIANOLI LEFT THE MEETING.

**9.3 (CDC2/99) - PROPOSED RESTAURANT - STRATA LOT 7; 233 ROCKINGHAM ROAD, SPEARWOOD - OWNER/APPLICANT: V & D MORABITO (2212140) (MT) (WEST) (MAP 7)**

**COUNCIL DECISION**

Moved Clr Elpitelli seconded Clr Lee, that Council:

- (1) approve the application for a restaurant on Strata Lot 7; 223 Rockingham Road, Spearwood 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 Council's District Zoning Scheme N<sup>o</sup> 2;

Special Conditions

1. The restaurant is not to use the rear courtyard for bin storage or washdown.
- (2) issue a MRS Form 2 to the applicant;
- (3) advise those who made a submission of Council's decision accordingly.

**CARRIED**

### **DECLARATION OF FINANCIAL INTEREST**

**Clr Wheatley** declared a financial interest in CDC Item 10.1. The nature being that he has been engaged to do legal work for WA Limestone.

AT THIS POINT THE TIME BEING 10:04PM, CLR WHEATLEY LEFT THE MEETING.

### **10.1 (CDC2/99) - NON COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL (LIMESTONE EXTRACTION) - LOTS 25, 26, 27, 28 PT CSL 15 & 30 WATTLEUP ROAD, WATTLEUP (OWNER: A ABORDI & J CATCHPOLE, ITALIA HOLDINGS, C FARADA, WA LIMESTONE AND PMR QUARRIES (4411428) (CC)**

#### **COUNCIL DECISION**

Moved Clr Humphreys seconded Clr Pecotic, that Council advise the owner/occupier of the land, Anham Nominees, PMR Quarries and WA Limestone that:

- (1) Use of Lots 25, 26, 27, 28 PT CSL15 and 30 Wattleup Road, Wattleup, is in breach of clause 7.2 of the City of Cockburn Town Planning Scheme No. 2 by reason of failure to comply with the following condition of Hon. Minister's approval of 4 August 1997:
  1. Condition 5 requiring the owner/occupier to comply with the commitments of the rehabilitation program produced by Landform Research, received by Council 4 April 1997.
- (2) In the event that the above matter is not rectified to the satisfaction of the Council officers within 28 days of the date of



this notice a prosecution action will be initiated by Council's solicitors against the landowner/occupier for a breach of the City of Cockburn Town Planning Scheme No.2 and the Local Law.

- (3) The carriage and conduct of any proceeding be undertaken in accordance with delegation DA-PD1.

**CARRIED**

AT THIS POINT THE TIME BEING 10:05PM, CLR GIANOLI AND CLR WHEATLEY RETURNED TO THE MEETING.

### **DECLARATION OF FINANCIAL INTEREST**

**Clr Gianoli** declared a financial interest in Council Agenda Item 9.1. The nature being that Evans & Gianoli, of which he is a partner, has acted as consultants for this matter.

AT THIS POINT THE TIME BEING 10:05PM, CLR GIANOLI LEFT THE MEETING.

## **9. ADMINISTRATION**

- 9.1 (OCM2/99) - PROPOSED REVOCATION OF COUNCIL DECISION 19/1/99 - CDC ITEM 7.3 - FINAL ADOPTION - AMENDMENT NO.182 - LOT PT. 1 AND LOT 781 CNR NORTH LAKE ROAD AND BERRIGAN DRIVE, SOUTH LAKE - OWNER: B & R INVESTMENTS PTY LTD - APPLICANT: BSD CONSULTANTS (92182) (SR) (EA**

### **RECOMMENDATION**

That Council considers the revocation of the decision of Council taken on the 19<sup>th</sup> January 1999 as follows :-

*"That Council :*

- (1) *uphold the submissions objecting to the amendment; and*
- (2) *advise the Minister for Planning that Council does not wish to proceed with the amendment, on the basis that the zoning of mixed business would not be compatible with the adjoining*

*residential land."*

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

**COUNCIL DECISION**

Clr Elpitelli questioned the legality of the rescission notice which was undated, being acceptable. The Chief Executive Officer responded that it was appropriately signed by five(5) Councillors and therefore acceptable.

In response to a statement made by Clr Elpitelli, Clr Lee requested it be noted that "he was not led by the nose to sign the rescission".

Moved Clr Wheatley seconded Clr Humphreys, that this matter be deferred until the next Full Council Meeting to give all Councillors a full and fair opportunity to consider this matter.

**MOTION LOST**

Moved Clr Lee seconded Clr Separovich, that Council revoke the decision of Council taken on the 19<sup>th</sup> January 1999 as follows:

*"That Council:*

- (1) uphold the submissions objecting to the amendment; and*
- (2) advise the Minister for Planning, that Council does not wish to proceed with the amendment, on the basis that the zoning of mixed business would not be compatible with the adjoining residential land."*

**MOTION LOST DUE TO  
LACK OF ABSOLUTE MAJORITY OF COUNCIL**

**Background**

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

*"That Council :*

- (1) uphold the submissions objecting to the amendment; and*





- (2) *advise the Minister for Planning that Council does not wish to proceed with the amendment, on the basis that the zoning of mixed business would not be compatible with the adjoining residential land.*

**CARRIED"**

A letter 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 Humphreys, Clr Hunt, Clr Separovich, Clr Lee and Clr Lees.

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

### **Submission**

N/A

### **Report**

Pursuant to Regulation 10, Council must consider the request to revoke this decision of Council.

However, any decision to revoke the resolution, can only be effective if it is carried by an Absolute Majority of Council (ie: 8 Councillors irrespective of the number of Councillors in attendance at the Meeting at the time it is considered).

Should an Absolute Majority of Council not be obtained, then the Council decision of the 19<sup>th</sup> January 1999 will remain in force.

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

N/A

### **Budget/Financial Implications**

N/A

## **DECLARATION OF FINANCIAL INTEREST**

**Mayor Grljusich** declared a financial interest in Council Agenda Item 9.2, the nature being that he is a Director of Peremate Holdings who owns land in the Packham Urban Development Area.



AT THIS POINT THE TIME BEING 10:33PM, MAYOR GRLJUSICH AND CLR ELPITELLI LEFT THE MEETING.

Moved Clr McNair seconded Clr Pecotic, that Clr Wheatley assume the Presiding Member's position.

**CARRIED**

CLR WHEATLEY ASSUMED THE PRESIDING MEMBER'S POSITION.

AT THIS POINT THE TIME BEING 10:35PM, CLR ELPITELLI RETURNED TO THE MEETING.

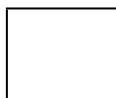
**9.2 (OCM2/99) - PROPOSED REVOCATION OF COUNCIL DECISION 19/1/99 - OCM ITEM 9.6 - PACKHAM DEVELOPMENT AREA OPEN SPACE FUNDS (9235; 104081) (CLR PECOTIC)**

**RECOMMENDATION**

That Council considers the revocation of the decision of Council taken on the 19<sup>th</sup> January 1999 as follows :-

*"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 6<sup>th</sup> 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."*

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

#### **COUNCIL DECISION**

Moved Cllr Lee seconded Cllr Waters, that Council revoke the decision of Council taken on the 19<sup>th</sup> January 1999 as follows:

*"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 6<sup>th</sup> 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."*

Moved Clr Humphreys seconded Clr Waters, that the motion be put.

**CARRIED**

**MOTION PUT AND LOST DUE TO  
LACK OF ABSOLUTE MAJORITY OF COUNCIL**

CLR PECOTIC REQUESTED THAT THE VOTES BE RECORDED.

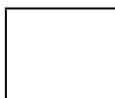
FOR: CLR WATERS, CLR HOWLETT, CLR HUMPHREYS,  
CLR SEPAROVICH, CLR LEE, CLR HUNT AND CLR  
WHEATLEY

AGAINST: CLR MCNAIR, CLR PECOTIC AND CLR ELPITELLI

The Chief Executive Officer advised Councillors that the minutes will record the administration's position on this matter that staff will not be acting on any part of the resolution which is considered to be illegal.

Moved Clr Humphreys seconded Clr Waters, that no further action be taken on this matter until such time as the Local Government Department have answered the questions to which they referred to in their recent letter.

**MOTION WITHDRAWN WITH PERMISSION OF COUNCIL**



Moved Clr Pecotic seconded Clr Elpitelli, that the Council make ex-gratia payments from Municipal Funds equal to funds collected from distributions of the Packham Urban Development Area Public Open Space Funds and distribute as progress payments, all of the funds held for the Packham Urban Development Area Public Open Space purposes together with interest including funds held by Urban Focus, to all land owners who contributed their land for public open space in excess of the 10% required.

**MOTION LOST**

CLR LEE REQUESTED THAT THE VOTES BE RECORDED.

FOR: CLR MCNAIR AND CLR PECOTIC

AGAINST: CLR WATERS, CLR HOWLETT, CLR HUMPHREYS,  
CLR SEPAROVICH, CLR LEE, CLR HUNT, CLR  
ELPITELLI AND CLR WHEATLEY.

**Background**

At the Council Meeting of the 19<sup>th</sup> 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 6<sup>th</sup> 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 27<sup>th</sup> 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 has taken place, pending consideration of the proposal to revoke it.

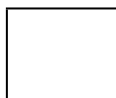
### **Submission**

N/A

### **Report**

Pursuant to Regulation 10, Council must consider the request to revoke this decision of Council.

However, any decision to revoke the resolution, can only be effective if it is carried by an Absolute Majority of Council (ie: 8



Councillors irrespective of the number of Councillors in attendance at the Meeting at the time it is considered).

Should an Absolute Majority of Council not be obtained, then the Council decision of the 19<sup>th</sup> January 1999 will remain. However, based on legal advice that the decision is illegal, if not rescinded, the decision will not be actioned by Council staff.

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

N/A

### **Budget/Financial Implications**

N/A

### **9.3 (OCM2/99) - PACKHAM URBAN DEVELOPMENT AREA - CONSULTANCY BRIEF FOR INVESTIGATION (9235) (SMH) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (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, 9<sup>th</sup> March 1999, for the Council's consideration at its meeting of the 16<sup>th</sup> 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

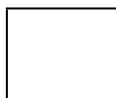
- Ms Cheryl Chaffer of Cheryl Chaffer and Associates, member of the PEER Review Committee (WAMA);
- (6) determine that, should additional monies be required to facilitate the appointment of the consultant, such funds be taken from the Chief Executive Officer's Consultancy Account No. 135310; and
  - (7) nominate Cllr \_\_\_\_\_ 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.

### **COUNCIL DECISION**

Moved Cllr Elpitelli seconded Cllr Humphreys that with regards to the decision of Council Agenda Item 9.2, should the Chief Executive Officer feel that he is unable to proceed with it in its entirety due to legal implications, that the following be acted upon as soon as possible:

That Council:

- (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, 9<sup>th</sup> March 1999, for the Council's consideration at its meeting of the 16<sup>th</sup> 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 Cllr 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.

**CARRIED**

## **Background**

Issues and concerns about the Packham Urban Development Area remain unresolved and continue to occupy a considerable amount of Councillor and staff time.

As it stands at the moment, there does not appear to be a satisfactory solution to the number of questions continuing to be raised by Councillors and landowners from the Packham Area, despite the responses being provided by Council's Solicitors, professional staff and others such as Urban Focus.

Packham has been a major issue within Council for the past 9 months, commencing with an application to subdivide Lot 17 Hamilton Road, Spearwood by Peremate Holdings Pty Ltd.

Lot 17 was the subject of an appeal. The appeal to the Minister for Planning was dismissed and following this, the owner requested the clearances for the subdivision be issued. This resulted in the creation of 18 lots, a road reserve and an area of public open space and drainage reserved under Section 20A of the Act. The public open space and drainage reserve was given up to the Crown free of cost and without compensation.

The issuing of the clearances for Lot 17 brought the matter to an end.



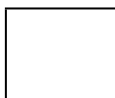
However, the owners of Lot 17 together with others from Packham, believe that the Council has a role and a responsibility to recompense those owners, from the Council's Section 20C Cash-In-Lieu of Public Open Space Account, who have over contributed public open space and drainage.

There have also been general and specific accusations made by some Councillors and landowners, about the administration of the Packham Urban Development Area by Council's staff and Urban Focus, particularly in respect to the legality and consistency of actions taken and the implementation of Council decisions.

In response to these concerns, the staff have endeavoured to provide comprehensive and objective advice to Council and where necessary, supported this by legal opinions from Council's Solicitors.

The various advice in the past which have sought to clarify the situation, most of which has been provided to Council on request, formed part of reports or in response to questions from Council or Councillors, the most important of which are summarised as follows:-

May 1989	Advice from Francis A Jones and Associates, Council Auditors, commenting on the appropriateness of the private owners agreement.
December 1996	Council seeks changes to the TP & D Act to enable payments to owners in a private subdivision agreement from the Section 20C Account to accommodate the \$222,934 paid to Urban Focus in 1995.
October 1997	Urban Focus requested the repayment of \$63,700 because it was incorrectly paid into the Council's Section 20C Account.
December 1997	Special Council meeting to receive advice from Denis McLeod.
December 1997	Legal Opinion from McLeod & Co on POS.
December 1997	Urban Focus advice on POS contributions.
December 1997	Council seeks to amend the TP & D Act.
January 1998	Legal Opinion from McLeod & Co on POS.
January 1998	Legal Opinion from McLeod & Co on POS Drainage Equalisation Arrangements.



February 1998	Draft Local Government Assessment Report by Department of Local Government on payment of monies by Council in relation to the Packham Development Area.
February 1998	Special Council meeting to receive advice from Denis McLeod.
February 1998	Legal Opinion from McLeod & Co on POS and Drainage.
March 1998	Special Council meeting to discuss Local Government Report.
May 1998	Department of Local Government Analysis Report on the payment of monies by Council in relation to the Packham Development Area.
May 1998	Urban Focus advice of POS Equalisation Arrangement.
May 1998	Legal Opinion from McLeod & Co on POS and Drainage.
June 1998	Report to Council on POS payments.
June 1998	Clr Pecotic required that the staff circulate 12 pieces of information relating to Packham to all Councillors.
June 1998	Response from the Hon Minister for Local Government.
July 1998	Report to Council on POS payments.
August 1998	Report to Council on Department of Local Government Audit.
August 1998	Hon Minister for Planning gives reasons to Peremate Holdings as to why its appeal was dismissed, which related to Packham situation generally.
September 1998	Report to Council on Packham.
November 1998	Department of Local Government advice on Section 20C payments.
December 1998	Response to Clr Pecotic by CEO.
January 1999	Response to Clr Pecotic by A/CEO.
January 1999	Response to Clr Pecotic by Director Finance



January 1999	Response to Clr Pecotic by A/CEO.
January 1999	Urban Focus advice on Private Owners Agreement.
January 1999	Department of Local Government advice on POS payments and 20C Account.
January 1999	Response to Clr Pecotic by A/CEO.
January 1999	Legal Opinion of McLeod & Co on Packham Resolutions of January 1999.
February 1999	Legal Opinion of McLeod & Co on Mr Claude Della-Bona's accusations.
February 1999	Urban Focus "Statement" on POS/Wetland Equalisation Arrangement sent to Council and it is understood also to all participating landowners.

This summary only includes advice received in respect to Packham, and does not include complementary and related advice received in respect to Lot 17 Hamilton Road, Spearwood owned by Peremate Holdings Pty Ltd.

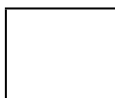
Since preparing this summary, the CEO has also sought a second legal opinion on specific questions relating to Packham from Mr John Woodhouse of Watts & Woodhouse, a firm which specialises in town planning matters, which has been circulated to all Councillors.

A similar request was made to the CEO of the Ministry for Planning in order to clarify certain points. It is hoped that this response from the Ministry for Planning will be available for tabling at the Council meeting on the 16<sup>th</sup> February 1999.

The investigation into certain matters dealt with by the Council by the Chief Executive Officer of the Department of Local Government under Section 8.3 of the Act, has yet to be presented to Council and the findings may have implications for Packham as a result of enquiries into the subdivision of Lot 17 Hamilton Road, Spearwood.

**Submission**

N/A



## Report

Since December 1998, with the receipt of a series of questions from Clr Pecotic about Packham, there have been numerous questions raised by Councillors and landowners to which considered responses have been supplied.

On the 23rd December 1998, the Chief Executive Officer wrote a 4 page letter to Clr Ostojich in response to questions he raised about Packham during the Council meeting held on the 15<sup>th</sup> December 1998. The correspondence contained 6 attachments. The response was sent to all Councillors.

On the 23rd December, Clr Pecotic wrote to the Chief Executive Officer requiring answers to 18 questions on Packham. The Acting CEO responded on 4th January 1999, with a 3 page letter to which there were 4 attachments. The response was also sent to all Councillors.

On the 5th January 1999, Clr Pecotic wrote to the Director of Finance and Corporate Services, asking answers to 5 questions to which a 2 page response was provided on 6th January.

On the 14th January, Clr Pecotic wrote again to the Director of Finance and Corporate Services, to which a reply was provided on the same day. A second advice was sent to the Councillor on the 5th January.

On the 15th January, Acting CEO provided a 4 page response to a request for information from Clr Ostojich dated 6th January to which 5 attachments were appended.

On the 18th January, Clr Pecotic again wrote to the Director of Finance & Corporate Services to which a response was provided on the 19th January.

On the 18th January, Urban Focus provided a 2 page letter to the Acting CEO in relation to the \$63,700 reimbursement from the Council 20C Account in accordance with the Department of Local Government's advice.

On the 18th January, Clr Pecotic wrote to the Acting CEO, to which a 3 page response was provided together with attachments.

On the 19th January, Mr Claude Della-Bona raised a number of questions relating to Packham at the Council meeting which were referred to Council's Solicitor for advice. This advice was



received on the 8th February and on that day, was circulated by the CEO to Councillors.

Also at the Council meeting on the 19th January 1999, Mrs Sheila Grljusich asked a number of questions relating to Lot 17 and Packham. An acknowledgement letter has been forwarded but a full response cannot be sent until the Lot 17 Subdivision File is returned by the Local Government Investigators. The return of the file has been requested.

On the 20th January, Clr Ostojich wrote a 3 page letter to the CEO, to which the CEO replied on the 3rd February and was also circulated to Councillors.

On the 8th February 1999, an advice was received from Urban Focus about the POS/Wetland Equalisation Arrangement for Packham. This 4 page advice was circulated to Councillors on the same day.

As can be seen from this brief chronology, the questions raised by Councillors and landowners have been responded to promptly.

The problem is that the staff responses and legal advice have not been acceptable to the enquirers.

The CEO and Directors are of the view that accurate and adequate advice has been provided to Council and landowners and the situation in respect to Packham and the entitlement of landowners, is clear and therefore, there should be no need for a consultant to be engaged to undertake an investigation.

However, based on the letter from Clr Ostojich dated 20th January 1999 where he states:-

*"In any event, it should not be an option to allow a bad situation to continue in the hope that it might be incidentally corrected.*

*Even more importantly, critically in fact, it should never be the case that the Council's Administration are making unilateral decisions on the direction of Council. There is only one Council. It makes directional decisions. The Administration implement those directions. There is no scope to blur these functions.*

*The fact is that this situation is the root cause of the confusion that is associated with the public open space*



*issue for Packham Development Area. It must therefore be corrected without delay.*

***Going forward, I would now be grateful if you would please advise me about what strategies you intend putting in place to resolve this matter."***

The CEO responded to Clr Ostoich on the 3<sup>rd</sup> February 1999, advising that he would put a recommendation to Council that an independent party be engaged to undertake an investigation into the Packham Urban Development Area, supported by a brief for Council's consideration.

As the staff believe that they have exhausted all possible avenues of advice to Council and landowners, the only option seen as being available, is to have an independent firm or person to undertake a review of the statutory basis, administration, operation and management of the Packham Urban Development Area.

Should the Council proceed with an investigation, the Department of Local Government would need to be involved and the CEO has already made the necessary request to the CEO, Mr John Lynch.

The response from the Department was:-

*"Re: PACKHAM URBAN DEVELOPMENT AREA*

*I refer to your letter of February 3 1999 regarding the Department's ongoing willingness to be involved in the management of a person(s) appointed to undertake an audit of the above project.*

*I confirm that the Department is still prepared to undertake this role. I agree Council needs to set the terms of reference for the audit but if the Department is to have the management role it must have the right to negotiate on those terms of reference. We will not manage a project in which we have basic objections to the terms of reference.*

*With regard to appropriate consultants who have sound planning knowledge I offer the following:-*

- *David Gray of Gray Lewis & Associates, and*
- *Gene Koltasz of Koltasz Smith & Partners.*

*These are both planning firms of sound integrity.*



*I am sure you will appreciate that there is a very limited number of persons appropriately qualified and available to take on a project of this kind.*

*I note the amount you have set aside for the project. I submit that for a thorough review of the type that would settle this issue I envisage that you will need to budget considerably more."*

The budget being considered by Council is \$10,000.

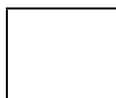
In addition to the two town planning firms suggested by the Department, it is suggested that two others be included in the list of consultants to be approached namely:-

- Mr Douglas Collins - Mr Collins is a retired town planner who was the Deputy Commissioner of Town Planning Department responsible to Dr David Carr. Mr Collins is currently working in a part-time capacity on the Hon. Minister of Planning's Appeal Committee. Mr Collins has extensive knowledge of statutory planning and is well respected within the profession.
- Ms Cheryl Chaffer - Ms Chaffer is the principal of Cheryl Chaffer and Associates, town planners and was previously the City Planner at the City of Fremantle. Since establishing her business, she has tended to provide specialised advice to WAMA in respect to statutory town planning and legal matters and serves on the recently formed PEER Review Committee established by the Hon. Minister for Planning, to examine processing and procedural matters within local government.

To broaden the list of consultants is considered worthwhile given the importance of the matter to be investigated and the time and cost involved.

It should be noted that none of the firms and individuals short listed, are aware of the proposed investigation and therefore, it cannot be certain that they are willing or able to accept such a specific commission.

A recommended brief is attached to the report for Council's consideration.





## Strategic Plan/Policy Implications

N/A

Except that the Council has adopted a Policy for the Packham Urban Development Area - PD11 amended on the 21<sup>st</sup> July 1998.

## Budget/Financial Implications

The Council is considering the setting aside of \$10,000 for an investigation if required, as part of the mid year Budget review.

It is expected that an investigation of the type outlined, could cost in the order of \$80.00 per hour plus the cost of specialist legal advice.

Based on this, the investigation could cost between \$3,000 and \$4,000 a week and over say 6 weeks, could cost between \$18,000 to \$24,000.

Therefore, to provide for a range of fee submissions, an allowance of \$25,000 or \$30,000 would be more appropriate.

In the brief, there is the scope for an indicative fee to be submitted because the final fixed cost will need to be determined following appointment, refinement of the brief and for the consultant to gain an understanding of the range and content of the background information.

The source of any additional funding could be available through the CEO's Consulting Account No. 135310.

### 9.4 (OCM2/99) - PACKHAM URBAN DEVELOPMENT AREA - PUBLIC OPEN SPACE PAYMENT (SMH) (9235) (ATTACH)

#### RECOMMENDATION

That:

- (1) the payment of \$222,934 made from the Section 20C Restricted Asset Account be deemed to have been made from interest held in that account.



**COUNCIL DECISION**

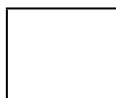
Moved Cllr Elpitelli seconded Cllr Humphreys, that this item be deferred until such time as the investigation as referred to in Item 9.3 (OCM2/99) is completed.

**CARRIED**

**Background**

At the Council meeting held on the 21<sup>st</sup> July 1998, Council resolved to:-

- "(1) *receive the report from the Department of Local Government entitled "Audit of Monies Paid by Council in Relation to the Packham Development Area", dated May 1998, the legal advice from Council's Solicitor McLeod & Co dated 16 February 1998 and 29 May 1998 and Urban Focus' responses dated 23 December 1997 and 30 March 1998;*
- (2) *seek the advice of the Department of Local Government in respect to:-*
1. *the refund of \$63,700 to Urban Focus from the Council's Section 20C Public Open Space Account; and*
  2. *the Council's payment of \$222,934 to Urban Focus in April 1995, being considered by the Council as a payment of interest monies from the Section 20C Public Open Space Account, separate from the principal held in the Account collected as cash-in-lieu payments from subdividers within the Packham Urban Development Area, as the means by which the Council can satisfy the intent of Section 20C of the Town Planning and Development Act;*
- (3) *seek reimbursement of the \$222,934 from Urban Focus, in the event that the Department of Local Government does not support the Council in respect to the advice sought in (2) 2. above, by a negotiated arrangement between Urban Focus and the Council. This arrangement being via the acquisition of future public open space in the balance of Stage 2 and Stage 14 of the Packham Urban Development Area and the subsequent*



*reimbursement of funds by Urban Focus to the Council's Section 20C fund ;*

- (4) *utilise the Section 20C Public Open Space funds held in the Cash-in-lieu Account to acquire part of a public open space buffer that may be required as part of a revised structure plan for the northern portion of the Packham Urban Development Area around the Watsons' factory in Hamilton Road, Spearwood.*
- (5) *advise the Department of Local Government that the Council proposes the following in respect to "private arrangement" subdivision proposals :*
1. *Council has initiated Amendment No 94 to its District Zoning Scheme No 2 which is currently awaiting public advertising consent from the Western Australian Planning Commission. This amendment will enable equitable cost sharing arrangements for public open space and other public infrastructure to be incorporated into the Scheme.*
  2. *An amendment to the existing Packham Urban Development Area Policy will be made to delete reference to "water and sewerage" services ; and an addition be made to the Policy as follows :*
- Council will only accept Section 20 C contributions from subdividers who are not participants in an Owners' Scheme which has already provided land for public open space or from subdividers who have not made a private arrangement with an Owners' Scheme for the provision of public open space*
- (6) *amend Policy PD 14 "Packham Urban Development Area" as outlined in (5) 2. above."*

The Chief Executive Officer arranged for the Department of Local Government to conduct an independent process audit of the 1995 public open space payment.

The report from the Department of Local Government was received on the 21<sup>st</sup> May 1998, entitled "Audit of Monies Paid by Council in Relation to the Packham Development Area" and was circulated to all Councillors on the 29<sup>th</sup> May 1998.



The Department of Local Government's report concluded, in respect to the \$222,934 payment, that although the payment did not comply with Section 20C of the Town Planning and Development Act 1928, the payment was made as per the expectations of the landowners, developers and staff of the City of Cockburn.

Extracts from legal advice have been circulated separately to Councillors.

- Letter from McLeod & Co to Council dated 16<sup>th</sup> February 1998.
- Letter from McLeod & Co to Council dated 29<sup>th</sup> May 1998.

**Report**

The recommendation to this report is based on the advice of Council's Solicitor, Denis Mcleod and the Department of Local Government's response (attached) dated 11<sup>th</sup> January 1999.

In support of the recommendation made, the following information is provided in respect to the Council's Section 20C Public Open Space Account.

1.	Balance of Section 20C A/C (Applicable to Packham Locality)	\$447,517.54
2.	Interest Accrued to Section 20C A/C (Total Interest)	\$237,812.24
3.	Amount Paid to Urban Focus in 1995	\$222,934.00
4.	Interest Balance after 1995 Payment	\$14,878.24

The Department of Local Government's advice means that it is open to the Council to deem that the \$222,934 incorrectly expended from that Account in April 1995 was from Interest monies and not the principal funds contributed by subdividers in the Packham area.

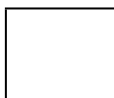
It should be noted that the actual interest earned on the Packham Funds held in 20C as at January 1999, is \$74,588.06.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

The Council may need to be prepared to reimburse the Section 20C POS Account \$222,934 from General Revenue if the recommended means of reimbursement is not adopted.



AT THIS POINT THE TIME BEING 11:32PM, MAYOR GRLJUSICH AND CLR GIANOLI RETURNED TO THE MEETING. MAYOR GRLJUSICH RESUMED THE PRESIDING MEMBER'S POSITION.

AT THIS POINT THE TIME BEING 11:35PM, CLR MCNAIR AND CLR HOWLETT GAVE THEIR APOLOGIES, LEFT THE MEETING AND DID NOT RETURN.

**9.5 (OCM2/99) - LOCAL AGENDA 21 CONFERENCE - MANDURAH, WA - 11/12 MARCH, 1999 (1027) (DMG)**

**RECOMMENDATION**

That Council nominate Clr(s) \_\_\_\_\_ as delegate(s) to attend the Local Agenda 21 Conference to be conducted in Mandurah on the 11<sup>th</sup> and 12<sup>th</sup> March 1999.

**COUNCIL DECISION**

Moved Clr Humphreys seconded Clr Wheatley, that Mayor Grljusich and Clr Separovich be nominated as delegates to attend the Local Agenda 21 Conference to be conducted in Mandurah on the 11<sup>th</sup> and 12<sup>th</sup> March 1999.

**CARRIED**

**Background**

Councillors were circulated with information on this Conference recently and requested to respond in time for the matter to be considered by Council, if interested in attending.

**Submission**

N/A

**Report**

Manager, Environmental Services will be attending the Conference.

Nominations to attend have also been received from Mayor Grljusich and Clr Separovich. In accordance with Council Policy, the matter is now referred to Council for further consideration.



**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

Funds are provided for in the Councillors Conference Account (approximately \$18000 unexpended). The cost per delegate is estimated at \$600.

**9.6 (OCM2/99) - MOTION CARRIED AT ANNUAL ELECTORS MEETING - 8 FEBRUARY 1999 - POSTAL VOTING (1713; 1700) (DMG)**

**RECOMMENDATION**

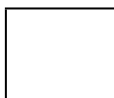
That Council advises Mr Glen Head of 15 Mollerin Place South Lake and Mrs Val Oliver of 8 Malvolio Road Coolbellup (representing 68 petitioners), that:

- a) Council is unable to conduct its 1999 local government elections under the Postal Voting system, due to the time constraints imposed by Sections 4.20 and 4.61 of the Local Government Act 1995; and
- b) Council will re-consider the issue of Postal Voting for the 2001 municipal elections and, if applicable, any prior extra-ordinary elections, in advance of the election date, to ensure compliance with statutory timetables.

**COUNCIL DECISION**

Moved Clr Lee seconded Clr Separovich, that Council advises Mr Glen Head of 15 Mollerin Place South Lake and Mrs Val Oliver of 8 Malvolio Road Coolbellup (representing 68 petitioners), that:

- a) Council is unable to conduct its 1999 local government elections under the Postal Voting system, due to the time constraints imposed by Sections 4.20 and 4.61 of the Local Government Act 1995; and
- b) Council will re-consider the issue of Postal Voting for the 2001 municipal elections and, if applicable, any prior extra-ordinary elections, in advance of the election date, to ensure compliance with statutory timetables.

**CARRIED**

## **Background**

At the Annual Electors Meeting conducted on the 8<sup>th</sup> February 1999, the following motion was carried:

"Moved Mr Glen Head seconded Mrs Val Oliver, that in accordance with Section 4.61 (2) of the Local Government Act 1995, the City of Cockburn conduct the 1999 elections as a postal election. If this is not possible due to time constraints, that postal elections be adopted for the following Local Government Elections."

Pursuant to Section 5.33 of the Local Government Act 1995, the decision is now required to be considered by Council.

## **Submission**

N/A

## **Report**

The decision carried at the Electors Meeting seeking Council to give urgent consideration at its February Meeting for the 1999 Council elections to be conducted as Postal Elections, is not capable of being carried out. Due to a change to the Local Government Act 1995, the timeframe for Council to decide whether it wishes a Postal Voting system of elections to be introduced, has been extended from 70 days to 80 days prior to the elections. In effect, this requires Council to have made this decision by the 10<sup>th</sup> February 1999, for it to be applicable for the 1999 elections. As that date has passed, it is not capable for Council to conduct its 1999 elections by any other method than by "voting in person" elections.

The second part of the motion, seeking a Council commitment to conduct future elections by Postal Voting, could technically be made at this time. However, it is considered more appropriate for the Council which will be in place at the time of the 2001 elections, to make that decision. It is possible that the make-up of Council could be different at that time and therefore, should be given carriage of making that decision.

## **Strategic Plan/Policy Implications**

Corporate Strategic Plan Key Result Area 4 - "Facilitating the Needs of Your Community" refers.



## Budget/Financial Implications

### 10. PETITIONS

Nil

### 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

### 12. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING IF GIVEN DURING THE MEETING

Nil

### 13. CONFIDENTIAL MATTERS

#### 13.1 (OCM2/99) - REMUNERATION REVIEW - CHIEF EXECUTIVE OFFICER (003) (ATC)(ATTACH)

##### **RECOMMENDATION**

That Council move behind closed doors to consider the remuneration review for the Chief Executive Officer.

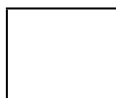
##### **COUNCIL DECISION**

Moved Mayor Grljusich seconded Cllr Lee, that this matter be deferred to the next Full Council Meeting for consideration.

**CARRIED**

### **Background**

The remuneration for the Chief Executive Officer was last reviewed in late 1996. Consultants, Gerard Daniels Australia Pty Ltd (GDA), were employed to review and make recommendations concerning the Chief Executive Officer's remuneration package.





**Submission**

N/A

**Report**

A copy of G.D.A's report to the Mayor has been circulated separately as a confidential document.

Included with the report, is a table setting out the Chief Executive Officer's remuneration package if G.D.A's recommendations are accepted.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

**14. CLOSING**

**Meeting closed at 11:41pm.**

**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

