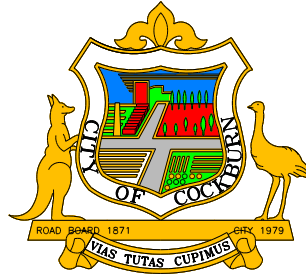


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR  
TUESDAY 15 MAY 2001**



## CITY OF COCKBURN

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 15 MAY 2001 AT 7:30 P.M.

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**1. DECLARATION OF MEETING**

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

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

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

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

**5. APOLOGIES AND LEAVE OF ABSENCE**

**5.1 (OCM1\_5\_2001) -**

Mayor S Lee  
Mr R Brown

Apology  
Apology

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

Nil

**7. PUBLIC QUESTION TIME**

Nil

**8. CONFIRMATION OF MINUTES**

**8.1 (OCM1\_5\_2001) - ORDINARY COUNCIL MEETING - 17/4/2001**

**RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Tuesday, 17 April 2001 be confirmed as a true and accurate record.

**COUNCIL DECISION**

That Council:

**8.2 (OCM1\_5\_2001) - SPECIAL COUNCIL MEETING - 19/4/2001**

**RECOMMENDATION**

That the Minutes of the Special Council Meeting held on Thursday, 19 April 2001 be confirmed as a true and accurate record.

**COUNCIL DECISION**

That Council:

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

Nil

**10. DEPUTATIONS AND PETITIONS**

**10.1 (OCM1\_5\_2001) - PETITION FROM STAFF AT THE CITY OF COCKBURN**

A petition has been received from Staff at the City of Cockburn regarding Superannuation.



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

Nil

**12. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENT BEFORE THE MEETING**

Nil

**13. COUNCIL MATTERS**

Nil

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM1\_5\_2001) - DEVELOPMENT COMPLIANCE PROCESS - POLICY APD29 (9001) (MR) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt proposed Policy APD29 "Development Compliance Process" for the purpose of advertising it under Clause 11.1.1 of District Zoning Scheme No. 2;
- (2) in the interim:-
  1. endorse the Development Compliance Process as a guideline as set out in the attachment to this report;
  2. authorise the Director Planning & Development to initiate legal proceedings against owner(s) and/or operator(s) within the district where development is in contravention of section 10(4)(a) of the *Town Planning & Development Act*.

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

**COUNCIL DECISION**

## Background

The City receives a diverse range of development compliance problems from the general public at an average rate of one every two days. The types of compliance matters can vary significantly from an unauthorised home occupation to an unauthorised industrial activity. Other compliance matters arise in follow-up inspections on conditions of approval which has not been undertaken in a systematic way in the past. This has led to certain developments failing to comply with conditions that would otherwise improve the operation and amenity of the activity.

The City employs a Development Compliance Officer to respond to and investigate breaches of the City of Cockburn District Planning Scheme No 2. This appointment has proven effective as a one point of contact for compliance matters and allows the Officer to focus his duties on resolving various matters. This is carried out in the first instance by negotiating a 'win win' solution in which case a clear majority of approximately 80% of complaints are resolved within 2-4 weeks. It is inevitable that some land owners and operators will not comply with instructions issued by the City either because:

- ignorance is offered and the final warning is the trigger to cooperate or;
- simply ignoring the issue and not willing to cooperate because the City is telling them what to do with their property;
- economic considerations of their operations are such that additional time is needed to undertake the work required or to find a more suitable premises

There is no clearly defined process for dealing with development compliance matters and this has led to:

- At times a lack of consistency in responding to development compliance matters;
- Some owners are given more time to comply with the City's requirements than other people in a similar situation.
- Complainants not being satisfied that the City is responding as quickly as it should.

Development compliance is given force and effect by the City of Cockburn District Zoning Scheme No 2. Clause 7.2 of DZS2 requires:-

- Council approval prior to commencement of development;
- Compliance with development conditions;

Failure to comply with any of the provisions of the Scheme constitutes an offence under the *Town Planning and Development Act*. Section 10 (4) (a) of the Act states:

*“(4) (a) A person who –  
contravenes or fails to comply with the provisions of a town planning scheme; or  
commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme.”*

*Is guilty of an offence.*

*Penalty: Maximum \$50,000, and a daily maximum penalty of \$5,000.*

## **Report**

The purpose of this report is to seek adoption of the proposed Policy APD29 "Development Compliance Process" for the purpose of advertising pursuant to District Zoning Scheme No. 2. In the interim the Council's endorsement of the Development Compliance Process is sought and to authorise the Director Planning & Development to initiate legal action where development is in breach of the City of Cockburn District Zoning Scheme No 2. Legal action is viewed as a 'last resort' in the event that an offence continues over 6 weeks unresolved or unlikely to be resolved within a reasonable time thereafter.

A development compliance process has been prepared as a guide to responding to public complaints. This process includes the major steps involved in enquiries, receipt of complaints, processing and completion.

The development compliance process attached is self explanatory and focuses on resolving matters up-front and in person. Compliance matters requiring further action will result in a first warning letter giving 28 days notice to bring a property into compliance with District Zoning Scheme No 2. A continuation of an unlawful activity will result in the issuance of a second notice for 14 days to comply with stated Scheme requirements. If a breach of the Scheme still continues the matter would then be referred to Council's solicitors for final notification before initiating legal proceedings. This approach allows for 'three strikes' for breaches of the Scheme by a person/s, (usually the owner of the land but can also include an operator).

Prior to undertaking legal proceedings it is important to ensure that the following principals are observed:-

1. There is a breach of the City of Cockburn District Zoning Scheme No 2 and any reasonable person would agree that this is the case;
2. That every reasonable opportunity has been afforded by the City for the matter to be resolved by responsible parties;
3. A continuation of the breach would result in an adverse impact on the amenity of the area, and further valid planning complaints being received;
4. The development conflicts with the general principals of orderly and proper planning.

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

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

Planning Your City

- *“To ensure that the development will enhance the levels of amenity currently enjoyed by the community”*

Conserving and Improving Your Environment

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

### **Budget/Financial Implications**

N/A

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

Nil

## **14.2 (OCM1\_5\_2001) - NEW POLICY - PUBLIC OPEN SPACE CREDIT CALCULATIONS (9003) (SMH) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the attached Policy APD28 - "Public Open Space Credit Calculations" and include it in the Council's Administrative Policy Manual;
- (3) adopt the attached Delegated Authority APD 28 "Public Open

Space Credit Calculations" and include it in the Council's Delegation Register.

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

### **COUNCIL DECISION**

### **Background**

This policy has been prepared as a result of difficulties experienced in determining the public open space credits for the proposed subdivision of Lot 202 on the south-west corner of Russell Road and Barfield Road, Banjup. The difficulties related to the credits applicable to the conservation and rehabilitation of a dampland. The dampland had been determined by the EPA as a "resource" enhancement - (Category R)" where the objective is to maintain and enhance its existing ecological functions.

Element 4 of the Western Australian Planning Commission (Commission) Liveable Neighbourhoods R5 - "Credits for public open space", allows credits for:-

- Drainage swales and detention areas up to 100% subject to certain requirements.
- Artificial lakes/permanent drainage ponds up to 50% (but not exceeding 20% of the total public open space contribution) of the permanent surface water area subject to certain conditions.
- Natural wetlands up to 50% (but not exceeding 20% of the total public open space contribution) of the natural wetlands and fringing vegetation subject to certain qualifications.

The Liveable Neighbourhoods criteria represents the most recent approach applied by the Commission, and therefore should be taken into account when formulating a policy on POS credits.

There is a need for a consistent interpretation of the approach to calculating credits for wetlands in the interests of both applicants and Council.

### **Submission**

On 11 April 2001, a meeting was held with the major stakeholders to determine acceptable POS credits relating to the subdivision of Lot 202

Russell Road. The meeting was conducted by the Ministry for Planning with representatives from the subdivider, the City and the Water and Rivers Commission. At the conclusion of the meeting an agreement was reached on the likely acceptable conditions, with the provision to clarify points at subdivision with the Ministry.

While each situation needs to be dealt with on a one to one basis, some general criteria needs to be provided to allow a consistent approach. The City needs to avoid creating a precedent which could compromise the Council in respect to the provisions of adequate and appropriate open space for public use.

The City of Cockburn contains numerous wetlands. Wetlands include lakes, sumplands and damplands and therefore many of the future subdivisions are likely to involve the protection, rehabilitation or utilisation of wetland areas for which POS credits will need to be determined.

### **Report**

A policy has been prepared and is attached.

The purpose of the policy is primarily to provide for a consistent approach in determining POS credits on land affected by wetlands.

The policy is self-explanatory and does not need elaboration.

The recommendation is to adopt the policy and the delegated authority.

The policy does not require advertising under Clause 11.1.1 because the policy relates to subdivision, not development. Subdivision is the responsibility of the WAPC.

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

The Key Result Areas which apply are:

#### Planning Your City

- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

#### Conserving and Improving Your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district"*

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

#### Facilitating the needs of Your Community

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

#### Maintaining Your Community Facilities

- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

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

N/A

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

The Council may make recommendations in respect to conditions of approval relating to subdivisions within the district. The final decision on matters relating to POS credits rests with the WAPC which is the authority that issues the subdivision decision.

### **14.3 (OCM1\_5\_2001) - AUTHORITY TO APPROVE OR REFUSE TO APPROVE PLANS AND SPECIFICATIONS PURSUANT TO SECTION 374(1b) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 (3108) (VG)**

#### **RECOMMENDATION**

That Council:

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

**COUNCIL DECISION**

**Background**

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

**Submission**

N/A

**Report**

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

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

**14.4 (OCM1\_5\_2001) - NUCLEAR FREE ZONES AND TOXIC INDUSTRIES SECRETARIAT SUPPORTERS (1247) (SMH)**

**RECOMMENDATION**

That Council:

- (1) receive the submission by the Australian Local Government Nuclear Free Zones and Toxic Industries Secretariat;
- (2) join the Nuclear Free Zone and Toxic Industries Secretariat.



**COUNCIL DECISION****Background**

Since at least 1991, the Council has been actively involved in the Australian Nuclear Free Zone Secretariat (WA Branch). In fact, Cllr Laurie Humphreys, during 1992 was the Branch Chairperson.

Minutes of the meetings of the Australian Nuclear Free Zone Secretariat are regularly sent to the Council for its information.

**Submission**

A letter dated 19 April 2001 from the Australian Local Government Nuclear Free Zones and Toxic Industries Secretariat read as follows:-

*"As a council that has passed an anti-nuclear motion or shown support for the anti-nuclear movement, we would like to invite you to join the NFZ secretariat.*

*The secretariat has had a very busy past 6 months with the employment of a part time national coordinator.*

*When you join the NFZ secretariat you will receive regular newsletters, become a member of the NFZ egroup, be provided with the most up to date information and possible motions for your council. We also lobby local, state and national politicians and representative bodies on your behalf.*

*We are currently setting up an office in Western Australia and will be hopefully expanding further on the east coast.*

*We derive our funds from local council membership and donation.*

*Annual membership fees are due in April 2001. Below is an invoice for your council for 2001/2002. We would appreciate prompt payment (before 30th April 2001) so we can continue our good work.*

*Thank you for all your support and we look forward to a busy year ahead."*

**Report**

Given the Council's concern about the establishment of noxious industries within the district and its past involvement in the Australian Nuclear Free Zone Secretariat, it would seem appropriate that it continue its support for the organisation.

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

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

2. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

### **Budget/Financial Implications**

The fee for membership of a Council with a population greater than 10,000 people is \$660 (inc GST).

The subscription should be funded from the Council's Account No. 110340 - Subscriptions.

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

Nil.

#### **14.5 (OCM1\_5\_2001) - AUTHORISED PERSON PURSUANT TO SECTION 245A OF THE LOCAL GOVERNMENT (MISCELLANEOUS PERSONS) ACT 1960, PRIVATE SWIMMING POOLS (3211) (VG)**

##### **RECOMMENDATION**

That Council:

- (1) authorise Mr Derek Ian Lamont to carry out the Powers and duties given to an Authorised Person contained in Section 245A of the Local Government (Miscellaneous Provisions) Act 1960;
- (2) issue to Derek Ian Lamont, a Certificate of Authorisation relating to (1) above as required by Section 9.10 (2) of the Local Government Act 1995.

##### **COUNCIL DECISION**

**Background**

Mr Lamont has recently been employed by Council as a Building Surveyor and part of his duties will include inspection of Private Swimming Pools and this function requires Council to authorise a person to do so.

**Submission**

N/A

**Report**

Mr Lamont has the appropriate qualifications and experience to be authorised by Council.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

- 14.6 (OCM1\_5\_2001) - PROPOSED RELOCATION OF COUNCIL COMMUNITY PURPOSE SITE - GATEWAYS SHOPPING CENTRE SITE - BEELIAR DRIVE, SUCCESS - OWNER: PERRON INVESTMENTS PTY LTD - APPLICANT: TAYLOR BURRELL TOWN PLANNING & DESIGN (5518344) (MR) (MAP 15) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the modifications to the Concept Master Plan for the Gateways site that provides for the relocation of the Community Purpose Site subject to:
  1. Provision of the southern access road off Wentworth Parade, a roadway along the eastern boundary of the site and abutting Service Station/Fast Food sites and the link south of the southern-most Fast Food site as shown on the Concept Master Plan (MP1).

2. The deferral of the proposed access modifications onto Beeliar Drive pending receipt of advice from Main Roads WA and the Western Australian Planning Commission.
3. The area of the Community Purpose lot being not less than 2.0 ha.
4. Development of the sites fronting the internal extension of North Lake Road including the Service Station and the Fast Food sites to suitably address the roadway between these and the Community Purpose site to ensure a high level of visual amenity, safety and security.
5. The abutting roadways being constructed at no cost to Council.
6. The new Community Purpose site is to be fully serviced at no cost to Council.
7. There are no services or easements on the site which restrict its usability apart from the eastern roadway.
8. The designated purpose of the reserve being for "Council Purposes".

(2) amend the Town Planning Scheme No 3 Maps by:

1. Deleting the proposed 'Regional Centre Zone' on Lot 185, and the western portion of Lot 183 Wentworth Parade and replacing with 'Local Reserve – Public Purpose (Civic Use)';
2. Partially remove the proposed 'Local Reserve – Public Purpose (Civic Use)' reserve on the eastern part of Lot 186 Beeliar Drive, Success and replace with a 'Regional Centre Zone'.

(3) adopt the modifications contained in (2) above and forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning grant final approval under the Town Planning Regulation 21.

(4) support the amalgamation/resubdivision involving Crown (DOLA) and the Perron Group to establish the new Community Purpose site and the completion of the land exchange, subject to appropriate conditions determined by the delegated officer.

**COUNCIL DECISION**

## **Background**

Council at its Ordinary meeting on 16 January 2001 resolved to support the relocation of the Community Purpose site as shown on the Concept Master Plan (refer to attachments) subject to public comment, and being reviewed in the light of any submissions made during the formal advertising of the revised Concept Master Plan.

The planning for the Gateways Shopping Centre in Beeliar Drive, Success, included the provision of a 1.91 ha Council Community Purpose Site. The site was provided as part of the overall public open space allocation for the Thompson Lake Estate developed by Gold Estates of Australia. The land is an irregular shaped area located in the south west area of the intersection of Beeliar Drive and North Lake Road entry as shown on plan 1 in the Agenda attachment.

The background to this matter is discussed in OCM1 1 2001 (AG Item 14.3).

## **Submission**

Taylor Burrell on behalf of the new owners of the Gateways Shopping Centre are proposing a modified Master Plan for the shopping centre development which involves the repositioning of Council's Community Purpose site. Before proceeding further with the revised Master Plan for the centre, Taylor Burrell have requested Council's support to the alternative Community Purpose site.

## **Report**

### Advertising & Public Submissions

In accordance with the advertising procedures set out in clause 8.2.9.1 of District Zoning Scheme No 2 (DZS2) the proposal was advertised for a period of 21 days. The proposal was advertised by way of advertising signs and newspaper advertisement. Letters of notification were also sent to adjacent landowners.

At the close of the advertising period one submission was received from Development Planning Strategies on behalf of Gold Estates of Australia. Gold Estates is not generally opposed to the proposed land exchange involving the Community Purpose site at the Gateways Shopping Centre but identified other planning issues relating to the Police Department requiring a 4,000m<sup>2</sup> site on Gold Estate land to the south. Gold Estates now understands that the Police Department are now looking for an alternative location closer to Kwinana Freeway for rapid response purposes. The submission raises considerations that

may require further investigations should the Police Department confirm their intentions. It is not considered appropriate for this proposal to be delayed pending this matter. An opportunity exists for the Council to consider a formal proposal from the Police Department to site a station complex on an alternative site should the need arise.

The land is reserved for Council Uses in Town Planning Scheme – District Zoning Scheme No 2 (DZS2) and proposed Public Purposes (Civic) in proposed Town Planning Scheme No 3.

There are several advantages with the revised Concept Master Plan in terms of its ideal location for both community and commercial uses, better lot shape, improved access and circulation, better transition between residential and commercial uses.

To relocate the Community Purpose site it will be necessary to complete the following statutory requirements:-

- (1) Adopt modifications to the Concept Master Plan for the Gateways site including the Community Purpose site;
- (2) Amend proposed Town Planning Scheme No 3 to change the location of the Council use reserve within the Gateways site; and
- (3) Approval from the WA Planning Commission for an amalgamation/ resubdivision involving the Crown (DOLA) and the Perron Group to establish the new site and the completion of the required land exchange.
- (4) Obtain advice from Main Roads WA and the Western Australian Planning Commission regarding the access modifications onto Beiliar Drive.

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

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City

- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
- *"To foster a sense of community within the district generally and neighbourhoods in particular."*

4. Facilitating the needs of Your Community

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

5. Maintaining Your Community Facilities

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

The Planning Policies which apply to this item are:-

PD15 Ultimate Strategic District Plan  
 PD25\* Liveable Neighbourhoods - Community Design Codes

**Budget/Financial Implications**

N/A

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

Nil

**14.7 (OCM1\_5\_2001) - PROPOSED MOBILE TELEPHONE TOWER AND BASE STATION - PT LOT 42; 45 MIGUEL ROAD, BIBRA LAKE - OWNER: BONDSBOW HOLDINGS PTY LTD - APPLICANT: THE PLANNING GROUP PTY LTD (4315176) (RH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the application to develop a mobile telephone tower and base station on Pt Lot 42; 45 Miguel Road, Bibra Lake subject to the following conditions:

Standard conditions

<p>1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council’s District Zoning Scheme No. 2;</p> <p>Special Conditions</p> <p>1. The tower being designed so as to enable other telecommunications carriers to co-locate on the facility.</p> <p>2. The proposed tower and equipment shelter are to be colour matched to their backgrounds.</p> <p>(2) issue a Form 2 Approval to Commence Development to the applicant.</p>
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<b>COUNCIL DECISION</b>
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**Background**

ZONING:	MRS:	INDUSTRIAL
	DZS:	GENERAL INDUSTRY/OTHER REGIONAL ROAD
LAND USE:	OFFICE & WAREHOUSE	
LOT SIZE:	19 735 m <sup>2</sup>	
AREA:	66.5 m <sup>2</sup>	
USE CLASS:	“Use not listed”	

Cable & Wireless Optus (C&W Optus) obtained development approval from Council for a 40 metre high mobile telephone tower at Lot 202 Miguel Road on 19 September 2000. Due to problems suffered by the tenants at this property, C&W Optus cannot act on the existing lease for the property nor can they implement the development approval granted by the Council. In response, C&W Optus required a new site that addresses the deficiencies in the existing mobile network.

**Submission**

The proposed development comprises a:

- 40 metre high steel slim line pole.
- Three 2.262 metre long panel antennae fixed at a height of 39 metres.
- Two 0.6m diameter parabolic dishes fixed at a height of 36 metres.



- 'Merino' coloured equipment shelter with an area of 3m by 2.5m, with a height of 2.65m, and located adjacent to the base of the monopole.
- 1.8m high security chainwire fence and gate surrounding the compound.

The submitted plans and elevations are attached to this agenda item.

The application was referred to six adjoining and nearby landowners, and a sign erected on the site for twenty-one (21) days providing an opportunity for comment. No submissions were received.

## **Report**

The proposed telecommunications facility was assessed against Council Policy in respect of the appropriateness of the location and visual impact. Other matters regarding emission of electromagnetic radiation are also discussed and are not an influencing factor on this proposal proceeding.

Council Policy PD32 – Location of High Voltage Overhead Power Lines and Microwave Towers states the following:

*“1 - The siting of mobile telephone towers is to be located where possible within industrial, commercial or other non-residential land within the district and as far as possible from any residences.*

*2 - Mobile telephone tower facilities are to be co-located with existing or future towers where the opportunity exists.*

*3 - Proponents of microwave towers are to provide the City with detailed assessment of radiation emissions and visual impact associated with proposed towers on nearby land uses.”*

## Site Location

The proposal does not have an adverse effect on the amenity of the surrounding area. This is due to the area being developed for general industrial purposes, the bulk of the surrounding developments and the extent to which the topography shelters the proposed tower.

The surrounding area comprises of industry directly to the north, south, east and west, and the suburbs of Bibra Lake to the north east and Yangebup to the east.

The proposed location is more than 400 metres from the nearest zoned residential land.

Three options for co-location were considered by the applicant. The options were deemed unsuitable due to the existing tower being structurally inadequate, the reluctance of the tenants to support such a

proposal, or the tower being outside of the search area identified by the applicant.

Several sites were then identified for the development of a new base station. The subject site was chosen for its ability to meet the mobile telephone service objectives that Optus has for the area, with minimal environmental impact.

### Visual Amenity

The proposal includes the use of a 40 metre slimline pole in contrast to the orthodox monopole or lattice tower of greater visual bulk. The antennas are also flush mounted rather than requiring the use of a triangular headframe.

The facility will have some impact by virtue of its height. The photo montages submitted by the applicant indicate that the tower will be visible to some extent from the residential areas in Yangebup, however the location is sufficiently separated from the residential area such that it could not be considered to have any significant impact on residential amenity.

Furthermore, due to the siting of the facility in an industrial, low-lying area with the equipment shelter and pole at the base of an embankment to the rear of a large industrial lot, the facility has little impact on the visual amenity of the area. The lower topography of the land has necessitated a height of 40 metres for the facility to effectively cover the signal dropout experienced in the mobile service area.

### Electromagnetic Radiation

With regard to the assessment of emissions of electromagnetic radiation (EMR), the opinion of the relevant government authorities should be considered, and Council's decision should be based on currently available evidence. The Electromagnetic Energy Public Health Committee, part of the Federal Department of Communications and the Arts, has developed a facts sheet which states the following:

- The weight of national and international expert scientific opinion is that there is no substantiated evidence that living near a mobile phone tower causes adverse health effects.
- The Australian Standard AS 2772.1 has established exposure limits to EME, which are far greater than the exposure one would experience from a tower of this nature. According to a recent study by the Australian Radiation Protection and Nuclear Safety Agency mobile phone towers' emissions at their highest measured 3000 times lower than the public exposure limit (that is, less than 0.03% of the limit)

- EMR has been around for 100 years or more, when wireless telegraphs were developed.
- The Australian Communications Authority (ACA) has established a standard in relation to limits for continuous exposure of the general public to Radio Frequency transmissions used by telephone base stations. The level estimated by the applicant for the proposed tower is highest at a distance of 240m from the tower and even then is a factor 280 times below the general public exposure limit which is applicable.

On currently available evidence it cannot be held that the proposal constitutes a health risk, however research is ongoing into the long term effects. Based on the considerable distance between the proposed site and any residential zone, it is considered that radiation emissions from the proposed tower will not pose a health risk.

### Conclusion

The proposal satisfies the locational criteria of Council's Policy by its siting within the industrial estate of Bibra Lake which is desirable in terms of:-

1. Physical separation from residential land (further than the current approval on Lot 202).
2. Compatibility with surrounding industrial land use.
3. Reducing the visual impact.
4. Not being any higher (at 40 metres) than the facility previously approved by the Council on Pt Lot 202 Miguel Road.

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

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

1. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*

The Planning Policies which apply to this item are:-

- PD1\* Compliance With Conditions of Planning Approval  
 PD31\* Telecommunications Policy - High Impact Facilities

PD32 Location of High Voltage Overhead Power Lines and Microwave Towers

**Budget/Financial Implications**

N/A

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

Nil

**14.8 (OCM1\_5\_2001) - RECONSIDERATION OF CONDITION - RETIREMENT VILLAGE AND NURSING HOME - PT LOT 152 PEARSON DRIVE, SUCCESS - OWNER: CAVERSHAM PROPERTIES - APPLICANT: PROJECT PLANNING AND MANAGEMENT WA PTY LTD (5515381) (CC) (ATTACH)**

**RECOMMENDATION**  
That Council:

- (1) approve the deletion of Special Condition No. 2 from Council's Planning Approval issued on 23 February 2001 for the retirement village and nursing home on Pt Lot 152 Pearson Drive, Success, subject to the approval of a comprehensive landscaping plan detailing verge planting and irrigation to the satisfaction of the City in accordance with Condition 6.
- (2) advise consultants on behalf of landowner/developer of the Council's decision.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	URBAN
	DZS:	RESIDENTIAL R80B
LAND USE:	VACANT LAND	
LOT SIZE:	5.4 HA	
AREA:	-	
USE CLASS:	AGED OR DEPENDENT PERSONS DWELLING (AA) & HOSPITAL – (SA)	

Council at its meeting of 20 February 2001 resolved to conditionally approve a retirement village comprising 137 retirement villas, a 75 bed nursing home and private community centre, roads and landscaping at Lot 152 Pearson Drive, Success which is located south of the Gateway Shopping Centre. See Agenda Attachments for February Report and Site Plan.

Special Condition 2, which required retention of trees (Melaleuca species) - approximately 11 in the Pearson Drive Road reserve, was imposed on the approval to provide for a landscape feature and in acknowledgement of their aesthetic value.

### **Submission**

The developer has requested that this condition be deleted on the grounds that the trees are located within the alignment of the proposed sewer main, which is to service the development, and one of the trees – the largest specimen – is located within the accessway to the development.

The developers have advised the total project value is 20 million dollars of which 1 million dollars has been allocated towards landscaping the site which includes landscaping the verge frontage in Pearson Drive. This represents a major commitment and will substantially enhance the amenity of the development.

### **Report**

A site meeting was held between Council officers and the project manager and it was determined that whilst the trees had some aesthetic value as a group, the removal of the largest specimen for the access way and selective removal of others within the sewer alignment would reduce the overall aesthetic value to a level deemed not worthy of retention.

The future reconstruction of Pearson Drive was also identified as an issue in respect to the retention of the trees. Although no final design of the road has been established it is likely that the road will be raised between 1 to 3 metres to achieve drainage gradients. The placement of curbing, fill and drainage infrastructure may also affect the roots and the trees long-term viability.

In view of the above matters, it is considered appropriate to allow the developer to remove the verge trees subject to approval of a comprehensive landscaping plan that incorporates verge planting and irrigation.

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

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

1. Managing Your City

- *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*

2. Conserving and Improving Your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

**Budget/Financial Implications**

Council to receive bond monies based on the valuation of the trees for reinstatement purposes.

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

Nil

**14.9 (OCM1\_5\_2001) - PROPOSED ADDITIONS TO EXISTING NURSING HOME - LOT 51; 382 CARRINGTON STREET AND LOT 63; 27 IVERMEY ROAD, HAMILTON HILL - OWNER: HAMILTON HILL OWNERSHIP PTY LTD - APPLICANT: MONTAGUE GRANT ARCHITECTS PTY LTD (2203743; 2205124) (RH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the proposed additions to the existing Nursing Home on Lot 51 Carrington Street & Lot 63 Ivermey Road, Hamilton Hill subject to the following 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 District Zoning Scheme No.2;
  2. Special Conditions.
    - 1) Increase the turning radii of the existing crossover and widen the car park entry from Carrington Street to a minimum of 6.0 metres to the satisfaction of the City.
    - 2) A Construction Management Plan being submitted to the City detailing the duration of construction, traffic management, construction hours, refuse collection and other relevant measures to reduce the impact of works on the adjacent residents.
- (2) issue an MRS Form 2 Notice of Approval valid for a period of 24 months;
- (3) advise those who made a submission of Council's decision accordingly.

**COUNCIL DECISION****Background**

ZONING:	MRS:	Urban
	DZS:	Residential
LAND USE:	Nursing Home and Duplex Dwelling	
LOT SIZES:	Lot 63 Ivermey St: 3827m <sup>2</sup> , Lot 51 Carrington St: 959 m <sup>2</sup>	
BUILDING AREA:	640 m <sup>2</sup> proposed, 2325 m <sup>2</sup> existing, 1065 m <sup>2</sup> approved.	
USE CLASS:	SA – Use not listed.	

The existing Nursing Home on Lot 63; 27 Ivermey Street was first built in 1971 as a 'C' Class Hospital. Alterations and additions were

approved in October 1987, August 1997, and June 1998. Recent additions included the provision of extensive undercroft carparking off Carrington Street.

A 1065 m<sup>2</sup> extension of the Nursing Home on Lots 53 & 54 Ivermey Street was approved by Council on 20 February 2001. Construction has not yet commenced on the approved building extensions. These extensions and additions have occurred as surrounding residential lots have become available for sale and have been necessary for the Nursing Home to cater for the demand for Aged Care facilities in the area.

Lot 51 (No. 382) Carrington Street was previously owned by Mr and Mrs Tomeo, who had on a number of occasions complained to the Council about the perceived adverse impact that the retaining wall to the nursing home had on their property. The sale of the property resolves this issue.

### **Submission**

Council received an application for a proposed addition to the existing nursing home on Ivermey and Carrington Streets, Hamilton Hill. The submitted plans indicate the construction of brick and tile additions to the hostel component of the existing Nursing Home.

The additions are proposed to accommodate an increase in the number of low care residents to 42, from 27. The facility also currently accommodates 29 high care residents with approval for 31 residents in the high care section.

The additions will have a pitched tiled roof to match the existing facility, and to maintain a residential appearance in the predominantly residential area. The proposed external colour scheme and material selection will be face brick walls with a terracotta tile roof. Extensive perimeter landscaping, planting and paving have been proposed. The principal main entry to this facility will remain at the portico entry off Carrington Street. The existing vehicle crossover will remain as the only access from Carrington Street to the extensive undercroft parking facilities provided.

The application was referred to seven adjoining and nearby landowners to provide an opportunity for comment. No submissions were received. One submission was received. The concerns raised in the submission have been addressed in the following report.

### **Report**

#### Building Design



For a large building the proposed design represents a good attempt to blend the development into the residential streetscape by providing for:

- A balcony style facade to Carrington Street which provides an active street frontage above pedestrian level.
- The use of the one existing crossover to Carrington Street, with all car parking screened behind walls with regular glass block panels and landscaping breaking up the facade.
- Terraced retaining walls to the northern boundary in order to reduce the change in ground levels, softened with landscaping.

### Carparking

The proposed extension of the undercroft parking area will accommodate an additional thirteen carbays, providing a total of thirty-six (36) carbays for staff and visitors. Although it was originally thought that some low care residents may be capable of driving, this has proven not to be the case and therefore no carbays are required by them. Nineteen carbays are located off Ivermey Road, providing a total number of fifty-five (55) carbays which is considered adequate for the staff and visitors of the development.

In addition, the use of a single crossover to service the undercroft car park will minimise potential traffic conflict on Carrington Street, which is currently a relatively busy road.

### Public Response

One submission was received as a result of advertising of the proposal. The submission was made by an adjoining landowner who has raised the following concerns:

1. The development would result in high fence lines and development surrounding the property with two boundaries adjoining the nursing home. Also dampness in the retaining walls may cause a problem in winter.
2. The development will block summer sea breezes.
3. Vibration from ground compaction during construction could cause damage to the house.
4. Increase in traffic and noise.

The following planning comments are made relative to the above concerns:

1. The proponent met with the landowner to discuss any issues that may arise as a result of construction of the proposed development. The retaining walls that will bound the subject land on two boundaries have been designed to lessen the impact of the change of levels so that the boundary retaining wall will be

1.8 metres at its highest point closest to Carrington Street, dwindling to ground level at the rear. An intermediate planting bed of 0.9 metres will be landscaped to the satisfaction of the adjoining landowner. A further 1.1 metre high retaining wall is then proposed at 1.2 metres from the property boundary. The retaining walls are designed to ensure the security of the adjoining landowners property and pets. As the ground level rises towards the rear of the property the rear retaining wall will be approximately 0.9 metres in height. The rear retaining wall is part of the development approved by Council in February 2001.

2. The design of the building is such that its physical impact is little more than a grouped housing development might have. An extensive outdoor courtyard area continues from the existing development running North-East South-West which breaks the physical mass of the building into two, allowing breezes and light into the neighbouring property. Although the building has a two-storey frontage to Carrington Street it decreases to single storey using the rise in ground level to the rear.
3. The adjoining landowner has indicated their conditional support based on the undertakings made to them by the proponent regarding construction. This matter can be addressed with the submission of a construction management plan to mitigate against impacts on neighbouring residents. Special Condition No. 3, as recommended, will also ensure that any damage that may occur as a result of construction of the proposed extension will be identified and remedied
4. It is not expected that the extension, which will accommodate an extra fifteen low care hostel patients, will create a great increase in local traffic. As already identified, the residents of the hostel do not drive, so the car parking is used mainly by staff and visitors. The carparking is enclosed in the undercroft area off Carrington Street and car movements will create minimal noise. Construction noise can be managed through the construction management plan required under Special Condition No.2.

#### District Zoning Scheme No.2

The proposal complies with the statutory requirements of Council's District Zoning Scheme No.2. The requirements of the Residential Planning Codes were also applied as a guide given the limited scope of the standards in the Scheme.

The required setback, according to the residential coding of the area, would be at least an average of six (6) metres which has been applied to the proposed development. The land within the street setback will be landscaped and treated as an attractive residential street frontage.

The building additions proposed will provide accommodation to elderly residents of the community within a modern facility. The proposed building is of an appropriate design that maintains the residential appearance of the site and contributes towards the streetscape.

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

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

#### 2. Planning Your City

- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
- *"To foster a sense of community within the district generally and neighbourhoods in particular."*

The Planning Policies which apply to this item are:-

PD6 Aged Persons Accommodation - Development Guidelines  
 PD7\* Access for People with Disabilities  
 PD17\* Standard Development Conditions and Footnotes  
 PD19\* Landscape Standards for Commercial/Industrial Development

### **Budget/Financial Implications**

N/A

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

Nil

## **14.10 (OCM1\_5\_2001) - RETENTION AND EXPANSION OF MIDGE MANAGEMENT BUFFER (6303) (KS) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) endorse for the purposes of advertising the updated policy "Residential Rezoning and Subdivision Adjoining Midge Infested Lakes" APD6 amended 4<sup>th</sup> April 2001;
- (2) adopt the list of wetlands subject to potential midge infestation;
- (3) adopt the City of Cockburn's Integrated Midge Control Strategy

reviewed October 2000;

- (4) require Council's Environmental Management Services to continue monitoring of the Lake Coogee area during the next midge season to elaborate on current results and further refine the midge buffer around Lake Coogee.

## **COUNCIL DECISION**

### **Background**

In 1994 the City of Cockburn recognised the need to produce an integrated midge control strategy. In the mid 1980's the City adopted a policy to prevent development around wetlands with midge problems. The initial Policy prohibited development within 1 km of midge infested wetlands, however over the past decade the policy has been reviewed and now prohibits development within 500m of midge infested wetlands with memorials on land between 500m and 800m from the midge infested wetland.

The policy has generally only been applied to those wetlands in the eastern chain of wetlands. Over the last 5 years the Council has undertaken routine monitoring of many of the wetlands within the City and numerous studies have been undertaken. This has provided extensive information and data that has placed the City in a better position to review the City's management of midge and the associated policy and its relevance to the western chain of wetlands.

### **Submission**

N/A

### **Report**

A report on the Retention and Expansion of Midge Management Buffer in the City of Cockburn is included in the Agenda attachments. Appendix two of the Management of Midge in the City of Cockburn report is the updated policy while appendix four is a full copy of the City's Integrated Midge Control Strategy. A summary of the Management of Midge in the City of Cockburn report includes:

Studies conducted to date have indicated that midge swarms can disperse great distance from wetlands and have suggested that a buffer of 800 meters be retained around wetlands. Studies have also

indicated that the retention of dense vegetation in the buffer zone minimises the distance of midge dispersal.

A wetland has the potential to be subject to midge infestation if it holds water during spring and summer and is nutrient enriched or has the potential to become nutrient enriched. Wetlands that meet these criteria in the City of Cockburn are:

Manning Lake, Market Garden Swamp 1, Market Garden Swamp 2, Market Garden Swamp 3, Lake Coogee, North Lake, Bibra Lake, South Lake, Little Rush Lake, Yangebup Lake, Kogolup Lake and Thomson's Lake.

The composition and abundance of chironomid populations vary considerably between Cockburn's wetlands, indicating that a universal solution to midge problems is unlikely to be found.

The Recommendations of the report are as follows:

- The City should maintain its position on a 500 meter buffer around wetlands subject to potential midge infestation. It is also believed that the requirement for development to have memorials on title between 500 and 800 meters also be maintained.
- Councils policy "Residential Rezoning and Subdivision Adjoining Midge Infested Lakes" APD6 should apply to all wetlands listed in appendix 4 of this report.
- Council should implement strategies to improve the water quality of wetlands in the City of Cockburn.
- Ongoing monitoring of midge numbers and their dispersal in the City of Cockburn, including monitoring around the western chain of wetlands, is required.
- The continued implementation of the integrated approach to midge control is recommended for the City of Cockburn.

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

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

#### 2. Planning Your City

- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

#### 3. Conserving and Improving Your Environment

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

The Planning Policies which apply to this item are:-

APD6\* Residential Rezoning and Subdivision Adjoining Midge Infested Lakes

### **Budget/Financial Implications**

Additional ongoing funds will be required to treat midge if development is allowed to occur within defined buffer zones associated with the western wetland area.

Currently Council spends in the order of \$100,000 p.a. for midge treatment.

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

Nil

## **14.11 (OCM1\_5\_2001) - HOPE VALLEY - WATTLEUP REDEVELOPMENT AREA - WATTLEUP COMMUNITY MANAGEMENT COMMITTEE (9335) (SMH)**

### **RECOMMENDATION**

That Council:

- (1) receive the request dated 30 April 2001 from Landcorp for the Council to nominate an elected member to represent the Council on the Wattleup Community Management Committee;
- (2) nominate Councillor \_\_\_\_\_ as its representative and Councillor \_\_\_\_\_ as the deputy on the Wattleup Community Management Committee.

### **COUNCIL DECISION**

## **Background**

The State Government is committed to ensuring a high level of community participation in the Hope Valley-Wattleup Redevelopment Area.

## **Submission**

A letter dated 30 April 2001 was received from Landcorp inviting Council to nominate an Elected Member to become a member of the Wattleup Community Management Committee.

## **Report**

Council should nominate an elected member to be on the Committee, and also nominate a deputy for those occasions that the representative is unable to attend.

Mayor Stephen Lee is on the Hope Valley-Wattleup Redevelopment Steering Group Committee.

The Chief Executive Officer, Rod Brown, is on the Hope Valley-Wattleup Redevelopment Project Working Group Committee and on the Consultant Selection Panel.

## **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
4. Facilitating the needs of Your Community
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

## **Budget/Financial Implications**

N/A

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

Nil.

**14.12 (OCM1\_5\_2001) - PROPOSED INDUSTRIAL SUBDIVISION - PT LOT 1, LOT 2472, LOT 11 AND LOT 13 PHOENIX AND NORTH LAKE ROADS, BIBRA LAKE - OWNER: AMCOR PACKAGING AUSTRALIA PTY LTD - APPLICANT: WA LAND AUTHORITY (LANDCORP) C/- MASTERPLAN CONSULTANTS (113648) (MR) (ATTACH)**

**RECOMMENDATION**

That Council recommend to the Western Australian Planning Commission that the industrial subdivision of Lot pt 1, 2472, 11 and 13 Phoenix Road, Sudlow Road and North lake Road, Bibra Lake be approved subject to the following conditions:-

Standard Conditions

1. Standard conditions contained in Council Policy PD16 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme No 2;

Special Conditions

1. The proponent preparing a detailed landscape resource assessment by a suitably qualified consultant to provide an appropriate visual buffer that retains a bushland frontage to North Lake Road and Phoenix Road, in consultation with the Local Government.
2. The subdivision design being amended to incorporate larger industrial size lots with building frontages onto a subdivisional road along North Lake and Phoenix Road. Protected bushland identified in Special Condition 1 being incorporated into the final road reserve width.
3. The aboriginal sites identified on-site being retained and conserved and protected from damage in accordance with the guidelines of the Department of Aboriginal Affairs.
4. The landfill and effluent disposal ponds being identified, decommissioned, and remediated in accordance with the guidelines of the Department of Environmental Protection and are not to be included as part of public open space.
5. Bushland within Public Open Space areas being clearly marked and/or fenced during subdivision construction to prevent unauthorised damage to the sites.
6. The proponent upgrading North Lake Road, Phoenix Road and



Sudlow Road in consultation with the Local Government.

7. The proponent preparing a suitable Fauna Management Plan for the relocation of any native fauna that may be displaced and the development requires habitat removal to minimise adverse impacts.
8. The proponent undertaking a detailed traffic management assessment and safety audit by a suitably qualified consultant to identify and carry out all works associated with the road intersections to North Lake Road, Phoenix Road and Sudlow Road in consultation with Main Roads WA and the Local Government.
9. The proponent undertaking any necessary measures (including land purchase) to secure a southern road access link with Spearwood Avenue, including the design, construction and drainage works in consultation with the Local Government.
10. The works associated with the excavation and re-contouring of the land must directly relate to a subdivision plan approved by the Commission.
11. No direct vehicular access being permitted onto North Lake Road, Phoenix Road and Sudlow Road.
12. The proponent carrying out rehabilitation of the South Lake reserve, using native wetland species and in consultation with Conservation and Land Management.
13. The South Lake reserve being vested in Conservation and Land Management, for the conservation of the wetland environment.
14. The public open space and land reserved for recreation must be a minimum of 10% of the gross subdivisional area.
15. The proponent preparing a development plan and estate guidelines for building design & materials, landscaping, fencing in consultation with the Local Government.
16. The subdivisional final contours must ensure that all drainage for the development drains into a nutrient-stripping basin away from the South Lake Reserve.

#### **COUNCIL DECISION**

## **Background**

The site is a large area of bushland zoned for industry in both the Metropolitan Region Scheme and Local Scheme. Two (2) Aboriginal sites (Stands of Scar Trees) are located on the land.

Amcor Pty Ltd operates the paper-packaging factory at the corner of Sudlow and Phoenix Roads under and by virtue of the Paper Mill Agreement 1960 with the State Government.

A central area of the site has been used since 1985 for disposal of dry and liquid waste from the paper plant.

In 1989 Council refused an application to extract sand from 40 hectares portion of the site on the following grounds:

- The site is not included in the States 'Basic Raw Materials Policy-Perth Metropolitan Region' Draft Report.
- The site is heavily timbered.
- There is currently an extensive sand quarry immediately south of the subject land with many years of available supply.

An appeal over the Council's refusal of the sand excavation was lodged by Landcorp with the Town Planning Appeal Tribunal. The appeal has not yet been determined and there is no clear timeframe when a decision will be made by the Tribunal.

The site of the factory was recently subdivided from the predominantly bushland area, as it was surplus to Amcor's requirements.

The City became aware in late 1998 that Amcor was offering the land for sale. In response Council wrote to the Ministry for Planning in January advising of the land's ecological values and that Council would be making submission on Bushplan to include a 33 hectares portion of the site in Bush Plan. Bushplan, released for public comment, had not identified the site as regionally significant-worthy of protection.

Council at its meeting of February 1999 also adopted a set of subdivision principles for the land in expectation of potential developers lodging applications. One of the principles was for the retention of the area sought to be included in Bushplan.

In March 1999 Council made a further resolution on the site to advise relevant agencies that the site would be a suitable location for the relocation of the Perth Zoo. At this meeting Council also made resolution for submission on Perth's Bushplan for inclusion of a 33 hectares portion of the site adjacent to the South Lake and North Lake Road.

The main rationale for inclusion in Bushplan was to provide a buffer to South Lake wetland from future industry and because of the bushland's relative good condition.

The outcome of Council's recommendation has since been established with the Cabinet release of the Final Bushplan in December 2000. The vegetated area of the subject land is referred to as "Other Native Vegetation" and therefore does not afford any level of protection by the State Government.

The Council's proposal for the relocation of the Perth Zoo - tourism-based activity, has not been supported by the State Government, despite recent attempts to gain the support of the Minister for Planning.

Surrounding land uses include St Paul's Residential Estate, North Lake Road, the tourist facility of Adventure World and the regional reservations of South Lake and Bibra Lake which form part of Beeliar Regional Park-Eastern Wetland Chain.

### **Submission**

The applicant seeks approval to subdivide 89.0 hectares of land into 190 industrial lots, to create an industrial estate that includes a range of industry similar to those found in the Canning Vale Industrial Estate. Refer to the attachments.

### Estate Components

The subdivision design is based on a mixed business area (ie offices) adjacent to South Lake and a General Industrial area for the balance of the land. The proposed lot sizes range from 1000m<sup>2</sup> to 3000m<sup>2</sup>. Provision is also made for some larger lots of around 1.3ha and 0.97ha to maximise exposure and access. A total of 51 lots are proposed.

The General Industrial sites vary in size from 1000m<sup>2</sup> to over 1 hectare (3 lots over 1.5ha). A total of 139 lots are designated for general industrial activities.

### Contamination

Amcor operates a number of unsealed liquid effluent ponds and a solid landfill in the south-west of the site. Effluent is also spray-irrigated into the bush at a number of current and former locations. Soils in areas used for irrigation of effluent by Amcor are free from significant contamination.

### Remnant Vegetation

The applicant via environmental consultants undertook an environmental assessment of the proposal and concluded that the vegetation condition ranged from poor near edges to good near the centre.

#### Rare and Threatened Fauna

The applicant has searched existing databases to determine if there are any threatened species recorded within the region. The Quokka is listed as being recorded in the region but after discussions with the WA Museum it was concluded that this could be disregarded.

#### Protection of South Lake

South lake is immediately to the east. The lake was mapped as a Conservation (C) category wetland by the Water & Rivers Commission's Wetland Atlas but this rating was downgraded to Resource Enhancement (R) by a review carried out by the WRC by Semeniuk (1997).

South Lake is a part of the System 6 Area M93 (Cockburn Wetlands Eastern Chain). To protect South Lake from adverse effects from industrial development protective measures are required that include a wetland buffer in accordance with EPA requirements. The criteria used for a buffer covering 1 metre vertically and 50 metres horizontally from the edge of the wetland dependent vegetation (ie paperbarks). It was agreed with the DEP to provide a buffer of 150 metres. The avoidance of direct drainage into the lake from industrial stormwater is also proposed through the establishment of infiltration basins.

#### Access

The major road access is proposed from North Lake Road, Sudlow Road and a new connection to Spearwood Avenue. Access to Phoenix Road is proposed to be limited to left-in, left-out turns.

Further investigations and negotiations are required to secure a southern connection onto Spearwood Avenue as the new road would traverse a closed road and privately owned land (Elders GM).

#### Open Space

The majority of open space for the estate is provided as a buffer to South Lake (6.2358ha area). The application plan proposed 10.3ha of open space (11.4%). This plan was later amended to reconfigure of open space by its removal from the existing waste disposal site.

#### Staging of land Release

The first stages are off North Lake Road to take advantage of the exposure to the greatest traffic volumes, and therefore potential clients. Early stages will include a connection to Sudlow Road. The southern end will be left until last to allow time to make arrangements for the Spearwood Avenue connection. There will be sand and possibly limestone extraction to achieve the desired finished levels for development.

#### **Report**

The subject land is zoned General Industry under the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2. The subdivision of the land generally corresponds with this ultimate use.

The amended plan was assessed for its conformity with the Council's subdivision principles endorsed in February 1999:-

**1. *Retention of upland vegetation around South Lake to maintain its visual and ecological integrity.***

The subdivision design has been amended to incorporate an extension of the existing reserve around the western side of South Lake. This land should logically form part of the regional reserve and not be set aside as local open space.

There are some areas within the vegetation buffer that require further rehabilitation that the proponent has committed to carry out as a condition of environmental approval.

The proposed levels of the industrial estate match in reasonably well with the proposed reserve and shouldn't require retaining walls. A natural transition in levels is preferred. The proposed levels provides for drainage to be collected to a central nutrient stripping basin and not directly into South Lake.

**2. *Retention of mature trees in a landscape strip along North Lake Road and Phoenix Road frontages.***

The proposed subdivision makes some attempt to retain vegetation within a 10.0 metre wide strip of land at the main entrance on North Lake Road but this has not been continued along the entire road frontage and along Phoenix Road.

A detailed Visual Resource Assessment is required to determine an appropriate vegetation buffer along the lot frontage to North Lake Road and Phoenix Road. The objective of this report is to provide a bushland appearance to the frontage of the estate in a manner that is consistent with Council's Bushland Conservation Policy that strives to minimise bushland clearing through development and subdivision design.

**3. *Provision of a road system linking North Lake Road with Spearwood Avenue, Sudlow Road and potentially Cocos Drive to the south.***

Logical road linkages to the existing road network are important to ensure convenient and safe vehicular access. The proposed subdivision design satisfied this basic requirement. Road connections with North Lake Road could include a new deceleration lane and safe right turn lane onto North Lake Road.

The other road connections are to Phoenix Road, which is close to the traffic lights with North Lake Road where stacking of cars may cause problems. At best a left in and left out may be possible. There are also two other proposed road links to Sudlow Street, one of which will require negotiations with an adjoining landowner. A southern connection into Cocos Industrial Park is also proposed with a road connection up to the southern lot boundary for an ultimate connection with Cocos Drive.

**4. No direct lot frontage will be permitted to North Lake or Phoenix Roads.**

Several proposed lots have dual lot frontage onto an internal subdivision road and North Lake Road. The intention appears that these lots are only to access from the internal subdivisional road.

**5. The potential for road access to Phoenix Road needs to be carefully examined before any approval is granted.**

The proposal incorporates a main access road from North Lake Road on the outside curve of North Lake Road which maintains traffic visibility in both directions. There are no immediate concerns with a road connection onto North Lake Road subject to approval of the intersection treatment. A detailed traffic management plan is required to assess traffic volumes and to define appropriate road reserve widths and if any design modifications are required. A safety audit is also required at intersections with North Lake Road, Phoenix Road, Sudlow Road and Spearwood Avenue. The audit will determine the appropriate intersection treatment.

**6. A service road is to be provided along a portion of the disused railway reserve along the southern boundary of the land.**

The subdivision design does not incorporate a service road along the disused railway reserve. Large industrial size lots would abut the reserve along their rear lot boundary and access being via an internal road link. The existing lots south abut the railway reserve in a similar manner to the subdivision plan. There are no objections to the plan notwithstanding that it does not adhere to this principle.

**7. Lots are not to back onto South Lake reserve or Phoenix/North Lake Road.**

A service road abuts South Lake reserve instead of lots backing onto this land. The design does not comply with this requirement in respect to the North Lake Road frontage. The basis of this principle is to ensure an appropriate building frontage and improved appearance

along North Lake Road rather than a view of the rear walls and storage yards.

To comply with this principle may result in single depth lots that are larger in size due to the configuration of the existing lot boundary.

**8. *An estate development plan and development guidelines are required.***

These details have not been provided and could be resolved following a decision from the WA Planning Commission.

**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.***

The application proposes to alter the existing contours in a way that avoids any direct discharge of stormwater into South Lake reserve, which includes its buffer area.

**10. *Subdivision requirements will include underground power and high quality estate perimeter fencing.***

The subdivisional requirements that can be expected from Western Power include the provision of underground power.

Estate perimeter fencing details are not included in the subdivision plans and could be explored in development guidelines. This is normally a standard subdivision requirement.

**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.***

The subdivision design does not incorporate superlots with the exception of the Amcor factory and office.

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

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

#### Planning Your City

- *“To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens.*

- *To ensure that the development will enhance the levels of amenity currently enjoyed by the community*
- *To foster a sense of community within the district generally and neighbourhood in particular.”*

#### Conserving and Improving Your Environment

- *“To conserve the quality, extent and uniqueness of the natural environment that exists within the district.”*
- *“To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.”*

#### Facilitating the Needs of Your Community.

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

#### Maintaining Your Community Facilities

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

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

Following subdivision the land the Council will be responsible for the maintenance of the roads created, post road maintenance bonding of works.

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

Nil

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

- 15.1 (OCM1\_5\_2001) - COOGEE BEACH - ESTABLISHMENT OF KIOSK/SHOP - POWELL ROAD, COOGEE - RESERVE 24306 (3300004) (KJS)**



**RECOMMENDATION**

That Council:

- (1) close portion of Powell Road and request the Department of Land Administration to revest that portion as recreation with a power to lease for periods of up to 21 years;
- (2) subject to the closure of portion of Powell Road, commission Hoffman Architects to design a Kiosk/Shop and associated paths and vehicular access to be located in a portion of road reserve Powell Road, Coogee;
- (3) call for Expressions of Interest to construct and enter into a lease for the Kiosk/Shop at Coogee Beach based on the architects design;
- (4) on completion of the Kiosk/Shop undertake the demolition of the current shop and construct pathways and modified roads as outlined in the architectural drawings with funds for the project being drawn from the Land Development Reserve Fund; and
- (5) advise the current Lessee of the Coogee Beach Shop of the above decisions.

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

**COUNCIL DECISION****Background**

Council at its Meeting held on 20 March 2001 resolved to receive Patterson Market Research report which indicates support for a café/dining establishment at Coogee Beach, investigate the possible replacement/upgrade of the existing Shop with a café establishment, and present a report to the May meeting of Council.

**Submission**

N/A

**Report**

Hoffman Architect was engaged to investigate various options in establishing a Kiosk/Shop at Coogee. The options explored were to:

1. Establish a Kiosk/Shop entirely within the road reserve of Powell Road that would be located within the current slot through the sand dune.
2. Demolish the Shop and First Aid building and establish a Kiosk/Shop in that location.
3. Extend and re-model the existing Shop to allow it to provide sit-down arrangements for hot drinks and light meals.

The option to extend and re-model the existing Shop was examined and discounted due to the poor state of both the internal and external state of the building. The Architect deemed that the cost of remodeling the existing building was more than the cost of a new purpose built building. The building should be demolished once the new Kiosk/Shop is completed. The cost of demolition is estimated at \$8,000.

Of the two remaining options the Architects favoured the construction of re-building within the road reserve and therefore outside the "A" Class reserve, and also within the existing corridor through the dune leading to the beach and jetty. The building will be able to be oriented to best get protection from prevailing winds whilst still getting wide ranging ocean views.

The building can be designed to be symptomatic to the natural coastal environment and still promote the civic qualities of the City of Cockburn.

Roof and landscaping treatments can ensure that the building blends in with the natural environment and has no impact on the long term stability of the dune system. This option requires the demolition of the existing slope at a cost of approximately \$7,000, once the building is finished, prior to the civil works.

The building can be situated such that the existing access to the beach and jetty is in no way impeded whilst the provision of the Kiosk/Shop services will be of great benefit to people visiting the park area behind the dune system, the beach and the jetty.

The calling for Expressions of Interest will allow for the short-listing of proponents to tender for the construction and leasing of the Kiosk/Shop. Applicants may have some concerns with the design which could be highlighted and addressed in their proposals. Similarly the applicants may wish to nominate their own supervisor for the project or they may use the nominated design architect. With this information known the tender document could be structured to allow for various scenarios.

The tender will not allow for any devolution of Council's control over the aesthetics or environmental sensitivities of the project.

Preliminary cost estimates are that the building would be in the order of \$350,000 whilst the landscaping pathway and road modification would be in the order of \$100,000. Hoffman Architects costs will be in the order of \$36,000.

The Architect considered the option of locating the Kiosk/Shop behind the dune system to be inferior, because the location offers no views. It had no connection to the beach. It would be largely hidden from the coastal road traffic and would involve a loss of service and income through the construction phase. This is because the existing shop would have to be demolished prior to the start of construction.

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

The Corporate Strategic Plan Key Result Area that applies to this item is *Facilitating a range of services responsive to Community Needs*.

### **Budget/Financial Implications**

The current shop is on a monthly tenancy which generates \$11,000 per annum. This would be lost once the new Kiosk/Shop was established. If the construction of the new Kiosk/Shop was financed by an operator/Lessee then the ground rent would be expected to be in excess of the current income generated by the existing Shop. If the City was to finance the construction of the Kiosk/Shop, the estimated rent would be at least 10% of funds expended.

Funding for the projected estimated at a total of \$151,000 can be allocated from the Land Development Reserve Fund.

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

Nil.

## **15.2 (OCM1\_5\_2001) - COOGEE CARAVAN PARK MANAGEMENT AGREEMENT - RESERVE 29678 (1913; 3310064) (KJS)**

### **RECOMMENDATION**

That subject to compliance with provisions of Section 3.58 of the Local Government Act 1995, Council enter into a new lease with Fleetwood Corporation P/L on the following basis :

- (1) an in-going premium of \$650,000;
- (2) an initial rent of \$110,000 per annum;
- (3) lease for a period of 10 years with two 5 year options;

- (4) that a new lease be prepared by Solicitors, McLeod and Co based on provisions contained in the current lease;
- (5) that payment of monies sought by Westrail to amend the boundary of Reserve 29768 and 11430 be drawn from the incoming premium with the balance of funds being transferred to the Land Development Reserve Fund; and
- (6) sell the five units which will belong to the City of Cockburn at the expiration of the current lease for the sum of \$75,000.

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

#### **COUNCIL DECISION**

#### **Background**

Council at its meeting held on 20 February 2001 resolved to:

- (1) *confirm that it intends to continue to lease Reserve 29678 for the operation of the Coogee Caravan Park;*
- (2) *consider at its March meeting, details of the proposed tender conditions; and*
- (3) *that any lease entered into with the successful tenderer will include a requirement for the Lessee to pay Westrail for the land to facilitate the amendments to the boundaries of Reserves 29768 and Westrail Reserve 11430.*

**CARRIED 10/0**

Councillors were informed via Councillors' Newsletter that negotiations with the current leaseholder was being conducted with Council officers.

#### **Submission**

An offer has been received from Fleetwood Corporation P/L.

#### **Report**

Legal advice from the City's Solicitors confirms that there is no legal impediment to changing any new or existing Lessee. Advice was sought from a business broker specialising in the sale of caravan park leaseholds. A valuation of the annual rent was also obtained by a

Licensed Valuer. The Licensed Valuer assessed the current market rent to be \$114,160 conditional on the term, paying all out-goings including Council rates, which on current rating would be \$24,355. The business broker would, if given the commission to market the tendering process of the Caravan Park would charge approximately \$55,000.

The broker estimates that the successful tenderer would be above \$750,000.

Under terms of the current lease five units become the property of the City at the end of the lease term. These units are in a prime position within the park and are used for short term holiday-makers.

Fleetwood Corporation has indicated that they would be prepared to purchase these units for \$75,000 to make way for more modern units. It is proposed that this offer be accepted.

In accepting the offer from Fleetwood Corporation consideration is given to the cost of \$55,000 to tender the lease and the disruption that would be caused if Fleetwood Corporation were to remove their own units and caravan off-site. It is estimated that approximately 20 people who rent caravans owned by Fleetwood Corporation would have to find permanent accommodation elsewhere. In addition, the current lease expires on 31 May 2001 and short term management of the Park would be required. As advised to the February meeting of Council, purchase of Westrail land at an estimated cost of \$42,486 (1997 valuation) is required to facilitate changes to the boundaries of Reserves adjacent to the Park.

An infrastructure audit has recently been carried out on the Caravan Park. The audit assessed the road sewerage system, electrical system and reticulation pumps. The Consultants report stated that there were no major deficiencies or faults with any of the systems. The report went on to recommend that a schedule of programmed maintenance be adhered to in the future. The existing lease stated that the Lessee was responsible for maintenance of all the infrastructure. The new lease will further emphasise that as part of a continued maintenance program, specific requirements and performance criteria will be adhered to.

The current lease has been reviewed by Council's Solicitors and found to be thorough in the issues addressed. The new lease will be drawn up to address these issues plus any additional clauses deemed necessary.

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

The Corporate Strategic Plan Key Result Area that applies to this item is *Facilitating a range of services responsive to Community Needs*.

**Budget/Financial Implications**

It is proposed that the net income from the transaction be transferred to the Land Development Reserve Fund.

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

Nil.

**15.3 (OCM1\_5\_2001) - REFUND OF DOUGLAS INQUIRY EXPENSES (1335) (ATC)**

**RECOMMENDATION**

That the reimbursement of the Douglas Inquiry costs of \$662,687.00 be transferred to the Rubbish Development Reserve fund.

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

**COUNCIL DECISION**

**Background**

In December 2000, Council was required to pay an amount of \$662,687.00 to the Department of Local Government as the first payment of the Douglas Inquiry costs. Funds were transferred from the Rubbish Development Reserve Fund for this purpose.

**Submission**

N/A

**Report**

The new Labour State Government has refunded the amount of \$662,687 as promised during the recent elections. As the funds came from the Rubbish Development Reserve Fund, it is proposed that the money be transferred back to that Reserve Fund.

Any decision regarding use of this money for alternative purposes can be made as part of the 2001/02 Budget deliberations.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

The recommendation would return the funds to the Reserve Fund they were drawn from.

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

Nil.

**15.4 (OCM1\_5\_2001) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

**RECOMMENDATION**

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

**COUNCIL DECISION**

**Background**

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

**Submission**

N/A

**Report**

N/A

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil.

**15.5 (OCM1\_5\_2001) - COMPULSORY LAND ACQUISITION - PORTION OF LOT 57 TINDAL AVENUE, YANGETUP - BEELIAR DRIVE - DEDICATION OF LAND AS PUBLIC STREET PURSUANT TO SECTION 56 OF THE LAND ADMINISTRATION ACT (4309121; 450953) (KJS)**

**RECOMMENDATION**

That Council request the Minister for Lands to dedicate portion of former Lot 57 Tindal Avenue, Yangebup, shown as road on Deposited Plan 26370 to public road, pursuant to Section 56 of the Land Administration Act 1997.

**COUNCIL DECISION**

**Background**

Council at its meeting held on 16 May 2000 resolved to initiate the compulsory acquisition of portion of Lot 57 Tindal Avenue, Yangebup.

**Submission**

N/A

**Report**

The Department of Land Administration has completed all aspects of the compulsory acquisition to the point where the Minister will approve the action of formally taking the land.

Prior to this action it is a requirement that Council undertake to accept the land as a public road.

The construction of Beelias Drive is currently out for tender.

**Strategic Plan/Policy Implications**

The construction of Beelias Drive between Kwinana Freeway and Stock Road is listed as a project to be completed.



**Budget/Financial Implications**

Funds have been allocated in the current Budget for this acquisition.

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES****16.1 (OCM1\_5\_2001) - SPEARWOOD AVENUE CONSTRUCTION - BETWEEN YANGEBUP AND SUDLOW ROADS, YANGEBUP (5911; 450007) (APS) (ATTACH)****RECOMMENDATION**

That Council

- (1) proceed to construct Spearwood Avenue between Yangebup Road and Barrington Street, when funds become available from the Metropolitan Regional Road Fund; and
- (2) maintain Spearwood Avenue (Yangebup to Sudlow Roads) as a high priority in the Metropolitan Regional Road Group – Road Improvement applications.

**COUNCIL DECISION****Background**

A petition has been received from local residents who reside in Miguel Road between Yangebup Road and the Railway crossing. They are requesting the construction of Spearwood Avenue Between Yangebup Road and Barrington Street which involves bridge construction to allow for the ultimate closure of the Railway crossing in Miguel Road and eliminate the ongoing safety concerns adjacent to their properties.

**Submission**

N/A

**Report**

The City of Cockburn applies for funding for regional roads through the Metropolitan Regional Road Group (MRRG). Applications for funding of regional roads has been an ongoing process and in recent times Beeliar Drive (Spearwood to Stock) being the highest priority with funding being finalised for this road which will be constructed by the end of this year. Spearwood Avenue (Stock to Sudlow) has also been a priority and has secured funding in the 2001/02 financial year to construct the second carriageway.

The section of Spearwood Avenue between Yangebup Road and Sudlow Road has been on the City of Cockburn priority list for MRRG funding for the past three to four years. Initial funding of \$400,000 has been received for the 2001/02 financial year to allow for the design and forward planning of the project. A further \$1,500,000 has been secured for the 2002/2003 financial year to work towards the construction of the bridge over the railway and single carriageway between Yangebup Road and Barrington Street.

Future funding applications will be required to finalise the construction of this section of Spearwood Avenue, with this project remaining a priority for the MRRG applications. The City of Cockburn are keen to maintain the levels of funding that it currently received via these applications, we as a Metropolitan Council complete with all other metropolitan councils for these funds.

There are no guarantees that additional funding applications will be successful yet our priority is still to submit a cross section of applications that have the best opportunity of maintaining our funding levels. Every effort is made to work on a priority program and finalise each project in due course.

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

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

### **Budget/Financial Implications**

The City of Cockburn is responsible for 1/3 of the cost of the MRRG project which is detailed below:

2001/2002	\$133,333
2002/2003	\$500,000

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

Nil

**16.2 (OCM1\_5\_2001) - TENDER NO. 20/2001 - CONSTRUCTION OF BEELIAR DRIVE FROM YANGEBUP/WATSON ROAD TO SPEARWOOD AVENUE IN BEELIAR (450953) (BKG) (ATTACH)****RECOMMENDATION**

That Council:

- (1) accept the tender submission of Option B from Georgiou Group Pty Ltd for the construction of Beeliar Drive from Yangebup / Watson Road to Spearwood Avenue for the lump sum price of \$1,804,419.15 including \$15,000 contingency;
- (2) provide the balance of the funds of up to \$150,000 for the construction of the road intersection with Watson Road.

**COUNCIL DECISION****Background**

Beeliar Drive is a major regional road. It connects the Kwinana Freeway to Cockburn Road. It has been constructed from Kwinana Freeway to Spearwood Avenue.

This is a further 1.5 kilometre extension from Spearwood Avenue to Watson Road.

**Submission**

Ten (10) tenders were received for this project, with one tender being late.

**Report**

The tender documentation included two options.

Option A is to connect to Yangebup Road

Option B is to finish 100 metres east of Watson Road.

As the land required for Option A has not been acquired, it is recommended that Option B be accepted and the connection to Watson Road be negotiated with the tenderer at the rates specified in the contract.

Bruechle, Gilchrist, Evans were appointed as the consulting engineers for the project. They have carried out the design, prepared the tender documentation and will supervise the construction.

The results of the tender are attached to the Agenda.

The tenders were evaluated using the following criteria:-

- |     |   |     |
|-----|---|-----|
| (a) | Price   | 60% |
| (b) | Evidence of company stability and experience  | 10% |
| (c) | Demonstrated past and current experience of work of similar nature  | 10% |
| (d) | Demonstrated ability to manage projects requiring:  | 20% |
|     | <ul style="list-style-type: none"> <li>• a high level of on site management</li> <li>• high level of finish</li> <li>• an interface with the public using existing associated facilities.</li> <li>• sound practices regarding environmental protection</li> <li>• provision of a safer working environment through an approved safety management plan</li> <li>• delivery within time required with emphasis on earlier delivery times.</li> </ul> |     |

It is recommended that the tender submission from Georgiou Group be accepted, based on recommendations of Bruechle, Gilchrist, Evans..

It is anticipated the work will be completed by the end of October.

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

The Corporate Strategic Plan states that one of our objectives is to construct and maintain roads which are the responsibility of Council in accordance with recognised standards and are convenient and safe for use by vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

There is \$1,985,132.90 available for this work.

Grant from Main Roads	\$1,133,000.00
Council Reserve Fund Account	\$ 567,000.00
City of Cockburn Trust	<u>\$ 285,132.90</u>
Total	\$1,985,132.90

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

All of the work will be carried out by a private enterprise company. The Council's road construction department did not submit a price.

**16.3 (OCM1\_5\_2001) - POLICY FOR LOCAL AREA TRAFFIC MANAGEMENT (1030) (BKG) (ATTACH)****RECOMMENDATION**

That Council adopt Policy AEW5 - Request for Local Area Traffic Management, as attached, and include it in Council's Policy Manual.

**COUNCIL DECISION****Background**

At the Council meeting held on the 17th April 2001 under section 22 "Matters to be noted for investigation without debate", it was requested that a brief report on traffic calming in the City of Cockburn be prepared.

It should include:

- (a) background on (i) the process of identifying the need for traffic calming (ii) the current traffic calming devices and methods used;
- (b) alternative options to speed humps/plateaus and chicanes;
- (c) an examination of traffic calming methods used in other districts.

**Submission**

N/A

**Report**

Traffic calming has grown over the past 10 years from frustrations of residents concerned about speeding and reckless driving in residential streets.

These residents complain to the police about speeding and reckless driving. The police inevitably say they cannot monitor all the requests they receive and often suggest they contact their local Council for assistance.

Currently the process used for agreement to install traffic management devices in a residential street is:

1. Requests for traffic calming devices are received by staff, usually by letter occasionally by petition and then follow-up phone calls to assess progress.
2. Staff then place speed monitoring and vehicle counting equipment in the street.
3. Staff also obtain crash data for the past 5 years.
4. Staff look at the street to see if there are any obvious hazards.
5. If the prevailing traffic speed as measured by the 85% percentile is greater than 10% of the posted speed limit, it is acknowledged there may be a safety problem in the street. For example in a residential street the speed limit is 60 kph but 85% of motorists are travelling at 66 kph or greater.
6. There is also consideration given to the number of vehicles using the street. Roads with less than say 300 vpd would not be considered and it would have to be a through road.
7. These are general rules, but sometimes persistence and lobbying over-rule the above. These instances are a minority.
8. Once the staff have agreed there is a case for some work to be done, a concept plan is prepared of what may be able to be implemented.
9. The project is then put forward for consideration for funding in the next financial year budget.
10. If approved the concept plans are finalised. The plans are distributed to the residents of the street inviting their comments. Signs are also installed in the street so the passing motorists can forward their comments.
11. If the person agrees to the installation of the traffic management device outside the property a final design is then prepared.
12. The proposal is then marked out on the road and left for one or two weeks and then construction commences.

This process has resulted in a high rate of retention of the devices.

A plateau is presently being taken up in O'Connell Street. A resident who suffers from chronic pain, found noise generated by vehicles hitting the plateau adding to his sleep disturbance, thus having a negative effect on his quality of life.

The process has also seen many devices not installed when residents could not agree on location or type.

The success rate is attributed to them mostly being installed in local streets, and were requested by the residents. None of the installations have been at the instigation of staff.

Because they are local streets there is usually alternative routes for the motorists to travel.

### Alternatives

Alternatives are to close the street. It is common in some suburbs in other municipalities to close the road, ie. make it into a cul-de-sac.

Another is to do nothing.

Another being investigated at present is to purchase a radar so motorists can see what speed they are travelling. This will only be possible on one street at a time and it is not enforceable.

The introduction of a 50 kph speed limit in residential streets may be another alternative. This is expected to be introduced later this year.

### Other Councils

Time has not allowed thorough investigations of what other Councils' policies are on traffic calming. However, in driving through other municipalities it is common to see the same methods being employed. They can be seen in Melville, Canning and Fremantle.

In Cockburn the first traffic management devices were installed in Progress Drive between Farrington Road and Hope Road. This work involved 2 chicanes and a round-about. This work was the result of the residents in Progress Drive wishing to deter trucks from using their street.

The purpose of traffic management devices is to increase safety on the road. The improvement in safety is achieved by trying to slow down the speeding driver.

One of the methods used to slow traffic down is to cause them to divert from a straight line. The greater the diversion angle the slower the travel speed needs to be. The extreme is a right angle turn. When a car turns at intersections it does so by necessity at a low speed.

Chicanes and roundabouts were used exclusively for 3-4 years in Cockburn.

The residents still wanted even more done to slow down traffic. So speed plateaus and humps were requested to assist in this goal.

The design of speed humps and chicanes is to encourage motorists to drive within the posted speed limit.

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

One of the objectives of the Corporate Strategic Plan is to maintain and construct roads to the required standards.

### **Budget/Financial Implications**

This financial year there was \$300,000 provided for the construction of traffic calming devices. The amount fluctuates from year to year according to community demands.

The cost quoted does not include the investigation, design and consultation costs.

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

Nil.

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

### **17.1 (OCM1\_5\_2001) - COCKBURN BASKETBALL ASSOCIATION (8000) (RA)**

#### **RECOMMENDATION**

That Council advise the Cockburn Basketball Association that it will:-

- (1) require the repayment of \$48,160 of the original self supporting loan taken out in 1989 with the repayment to be in 10 equal instalments over 5 years with the first payment to be made on the 30<sup>th</sup> of April 2003.
- (2) write off the balance of \$195,936 inclusive of the existing account of \$16,736 of the outstanding loan as a donation to the Association for its junior activities.
- (3) amend the current lease agreement to allow for the lease term to be reduced from 10 years to 7 years with the association to repay a loan of \$48,160 in ten equal instalments over a 5 year period with the 1<sup>st</sup> payment due on the 30<sup>th</sup> of April 2002.
- (4) require the payment of the outstanding rubbish rate invoice of \$3,180 by the 30<sup>th</sup> of June 2001.



- (5) inspect the building to determine maintenance needs and priorities for consideration by Council in its 2000/01 budget deliberations in accordance with the terms and conditions of the lease.

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

### **COUNCIL DECISION**

### **Background**

At the Council meeting of the 1 November 2000 Council resolved to defer the repayment of a \$172,000 loan taken out in 1990 which was to be paid back at the rate of \$11,368 each 6 months over 10 years in accordance with the recently signed lease agreement. The deferment was until the 1<sup>st</sup> of June 2001. The Association was however required to repay an outstanding account of \$16,736. The lease agreement is for ten years and is aligned with the period for repayment of the loan. Council also required the Association to discuss with the In Line Hockey Association the scope to share facilities. The In line Hockey Association has advised that they are not interested in sharing facilities with the Basketball Association.

The original loan was for \$100,000 taken out in 1989 with the Association to repay the loan plus interest which by the due date for repayment of the loan then stood at \$172,000. The Council resolution of the time called for the Association to repay the \$172,000 loan plus the interest Council could earn on the money. The result of this decision is that the club now is required to pay back \$227,360 over the repayment period.

Council spent \$660,000 in 1993 to modernise the facility. The toilets/changerooms and kiosk area were upgraded; new stadium seating and clubroom/bar area was established. Due to complaints from a local resident a further \$40,000 was spent by Council on acoustic control in 1997. In 1999, Council contributed \$12,500 towards the \$37,500 cost of replacing the western portion of the roof. In February 2000 Council paid \$39,000 for replacing the eastern portion of the roof of the roof. Under the terms of the lease Council is responsible for all major repairs such as the roof replacement.

### **Submission**

The Association wrote to council on the 23<sup>rd</sup> of January 2001 advising that it was neither unable to meet the loan repayment commitments as required in its lease nor the outstanding account of \$16,736. Representatives of the Association subsequently met with the Mayor, several ward councillors and members of administration on the 1<sup>st</sup> of March 2001 to discuss the associations situation.

In its written proposal and in the discussions the Association has requested the cancellation of the loan debt and the following:

- Cancellation of the current lease
- Cancellation of the current loan deficit
- Cancellation of the current rate invoice
- Implementation of a stadium rental fee of \$1200 per year
- Council to take responsibility for the maintenance of the outside facilities
- Council to contribute to various indoor upgrades to a total value of \$33,871

## **Report**

There has been a steady decline in the popularity of Basketball across Perth which combined with the competition provided by the Lakeside Baptist Church, South Lake Leisure Centre, Leeming Recreation Centre and Willetton Centre has resulted in a significant decline in income generated. It is understood that some of the centres mentioned above are also suffering from substantially reduced incomes.

The Association has presented to Council a detailed proposal, which sets out its operational and financial position. It is evident that the Association would have difficulty in repaying its loan in the short to medium term. As at the 2 of March 2001 its current liabilities amounted to a total of \$65,449.17 with cash in the bank of \$3,642.

From the figures provided it appears that the State Basketball team the Cockburn Cougars are a significant drain on the resources of the Association particularly the cost of the American import players. The not unreasonable proposition put forward by the club is that the Cougars provide an inspiration for the Associations junior members to aspire to higher levels and hence actually supports the junior competition. Equally it can be questioned whether the Council should have a role in supporting a semi- professional Association. Quite clearly it should not be involved in the direct financing of the Cougars.

The major social benefit the Association offers to the residents of the City are the number of young people who participate in the centre activities. It states that " Today the Association is home to over 170 teams from Cockburn and the surrounding areas, including East Fremantle, Fremantle and Rockingham". "Around 4000 people are

enticed to the stadium each week as either a player spectator, friend or parent.” Council has had for many years a policy of supporting juniors and it is not unreasonable that any assistance given to the Cockburn Basketball Association is based on its support of juniors. The club advises that they have 122 junior teams (under 18) and 48 senior teams. That is 72% of the teams are juniors.

The salient issue to be addressed is the request by the Association for the cancellation of the self supporting loan as it sends an important message to other clubs and organisations in the City that Council has been known to cancel other parties commitment to these loans. Equally Council in the future would be justified in being reticent in assisting clubs with self-supporting loans given the precedent with the Cockburn Basketball Association. Should Council agree to cancel or suspend the loan it should only do so with a clear and justifiable rationale. With this in mind it could be argued that the club be required to pay back 28% of the loan.

The original council resolution was that the Association be required to pay back the original loan plus interest plus Council’s loss of interest on the loan amount which will result in the club paying back a total of \$227,360 on an original loan of \$100,000. It can be argued that the requirement for a community Association to pay back the loss of interest on the loan funds is harsh. If this is accepted then the Association could be required to repay a loan of \$172,000. With a subsidy for juniors of 72% the actual amount to be repaid would be \$48,160.

Given the current liabilities of the Association it is proposed that it be given a year before it is required to begin paying back the loan of \$48,160 which can be spread over 5 years at \$4816 paid each six months. This compares to the current requirement within the lease for the association to repay the loan at \$11,368 each six months for a ten-year period.

In respect to the current outstanding account for the loan repayment this can be included in the write off of the portion of the loan that does not need to be paid off.

Given that the proposal is for the Association not to have to make any loan repayments for 2 years it is not unreasonable that they should be required to pay the outstanding rubbish rate account of \$3,180 prior to the 30<sup>th</sup> of June 2001. It is worth noting that the Association does not pay general land rates.

Turning to the other specific requests from the Association of Council.

- There seems little point in cancelling the lease out right. It appears to be much more efficient to modify the existing lease with

an addendum if there are to be any minor changes to the terms and conditions.

- Under the proposed scenario it appears unnecessary to impose a rental of \$1200 per year, as there still remains a loan repayment.
- Under the existing lease terms Council is required to maintain the external elements of the stadium including the car park areas.

The Association has also identified a number of stadium upgrade matters it would like addressed that have an estimated total value of \$33,871. Of this figure approximately \$8,600 is related to upgrade of the bar area. Given council's long held position that it does not give financial support to bar facilities in clubs it is proposed that these elements of the upgrade proposal be discounted. It is proposed that the association be advised that Council will give consideration to the other upgrade matters in its 2001/02 budget considerations.

In conclusion Council has several options:

- To terminate the lease and either operate the centre itself or lease it out to another group. This option is not supported. If Council was required to operate the facility it would inevitably result in additional expenses to Council and some subsidisation of the centre. Further Council would then have to write off the total amount of debt owing. There are no known groups that would be prepared to operate the centre without some Council subsidy. Finally the viability of the Cockburn Cougars would become very problematic and may fold which may be interpreted in the local community as being Councils 'fault'.
- To write off the total debt owed. This position is not supported as it sets an unfortunate precedent for other groups with lease agreements with Council. The effect is also that Council would be giving direct support to seniors and a semi professional sports team, the Cockburn Cougars.
- The preferred option is to write off that portion of the debt that can be seen to apply to subsidising juniors. The balance of the debt to remain with the association with a repayment schedule at a level that is manageable for the future viability of the association.

In discussions with the association this latter preferred option is agreeable to the group.

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

The Corporate Strategic Plan objective that applies to this area is:

'To facilitate and provide an optimum range of community services'.

### **Budget/Financial Implications**

The total income of the City will be reduced by \$179,200 over a ten-year period although the actual loss of income on payments made by council in the loan repayments is \$123,480.

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

The provision of recreational facilities is a traditional Council activity. The operation of the Wally Hagan Stadium by a community association is an efficient means to provide the service that competes with other similar services south of the river.

## **17.2 (OCM1\_5\_2001) - COASTAL MOTOR CYCLE CLUB (1810) (RA) (ATTACH)**

### **RECOMMENDATION**

That Council advise the Coastal Motorcycle Club that it is required to pay the rental fee as prescribed in the sub lease and non-payment will be considered as a breach of the terms and conditions of the sub lease and the termination clause of the sub lease will be invoked.

### **COUNCIL DECISION**

### **Background**

The Coastal Motor Cycle Club, Tiger Kart Club and the Radio Modellers have all leased portions of land in the Mt Brown Reserve area. In the lease agreement the Council and the clubs agreed that the clubs would pay an annual rental fee of 60% of the rates calculated on the valuation of the property as determined by the Valuer General.

In November 1998 Council agreed to phase in an increase in the rental rate due to a one of substantial increase in the rate due to the Valuer General not having reviewed the rates for some time. The result was that the club was to pay 1/3 of the rate in 1998/99, which equated to \$1284.50 2/3 in 1999/00 and the total amount for 2000/01, which equates to \$4,200.

### **Submission**

The Coastal Motor Cycle Club has written to Council complaining about the charge level and requesting that the charge be reviewed. Whilst there is no suggested figure proposed it is understood that the club believes that should be no charge. A copy of the letter is attached for information.

### **Report**

The Mt Brown portion of the Beelihar Reserve area is to be transferred to CALM toward the end of 2001 with the sub leases being transferred as well. These are for the Coastal Motor Cycle Club, Tiger Kart Club and the Radio Modellers. Any consideration council gives to reducing the current obligation that the Coastal Motor cycle Club has is likely to be short term. CALM are unlikely to support any reduction to the rental fee set in the sub lease.

#### **Tiger Kart Club (Debtor No. 90050)**

<i>Date of Inv</i>	<i>Rent Period</i>	<i>Amount</i>	<i>Paid</i>
30/9/98	Annual Rent 1/7/98-30/6/99 (1/3 of total due \$3685.96)	\$1227.40	1/12/98
2/11/99	Annual Rent 1/7/99-30/6/00 (2/3 of total due \$3965.20)	\$2643.47	17/11/99
19/10/00	Annual Rent 1/7/00-30/6/01 (Full Value of Rent)	\$4025.00	30/10/00

(Rent prior to 1998/99 was \$1008.37 per annum)

#### **WA Radio Modellers (Debtor No. 93628)**

<i>Date of Inv</i>	<i>Rent Period</i>	<i>Amount</i>	<i>Paid</i>
30/9/98	Annual Rent 1/7/98-30/6/99 (1/3 of total due \$1848.34)	\$ 615.50	30/12/98
16/11/99	Annual Rent 1/7/99-30/6/00 (2/3 of total due \$1982.60)	\$1321.73	14/2/00
19/10/00	Annual Rent 1/7/00-30/6/01 (Full Value of Rent)	\$2012.50	8/11/01

(Rent prior to 1998/99 was \$458.35 per annum)

#### **Coastal Motorcycle Club (Debtor No. 26011)**

<i>Date of Inv</i>	<i>Rent Period</i>	<i>Amount</i>	<i>Paid</i>
30/9/98	Annual Rent 1/7/98-30/6/99 (1/3 of total due \$3857.40)	\$1284.50	13/11/98
2/11/99	Annual Rent 1/7/99-30/6/00 (2/3 of total due \$4137.00)	\$2758.00	22/2/00

19/10/00      Annual Rent 1/7/00-30/6/00      \$4200.00      outstanding  
(Full Value of Rent)

(Rent prior to 1998/99 was \$687.52 per annum)

It ought to be noted that both the Tiger Kart Club and the Radio Modellers have paid their fee without complaint.

The request to reduce or eliminate the rental fee charged to the club should not be supported for the following reasons:

- There is a signed sub lease in place, which applies to the 3 clubs that use the area. Council will set an unfortunate precedent in which clubs sign a lease (sub-lease) and then come back later to renegotiate significant clauses.
- The clubs have access to a significant area of public land. The nature of their activities means that the land available for such uses is very limited within the metropolitan area and hence at a premium.
- The area is in fact deemed a conservation reserve that is not compatible with the current activities, although for historical reasons it is planned to be set aside for these purposes.
- The fee current fee of \$4,200 for the sole use of an area of 8.23 hectares could hardly be described as excessive.

The arguments put forward by the Club are in general terms as follows:

- The costs are based on costs similar to that for industrial sites.
- The costs of running a cycle club are very high due to the need to maintain the club facilities for safety reasons.
- The club fees are \$100 per member where as other similar clubs have fees of about \$80. Other clubs in outer metropolitan areas pay no rental fee.
- The club attracts individuals who would otherwise be motor cycle riding illegally and hence serves a community benefit.
- Other non – profit sporting groups do not pay a rental fee and be also required to maintain their facilities.

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

N/A

### **Budget/Financial Implications**

Should council reduce the fee to the Coastal Motor Cycle Club it could be under some obligation to reduce or eliminate the fee for the other two groups. If Council were to no longer charge a rental fee to the clubs there would be a loss of income to Council of \$10,237 for 2000/01.

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

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**19.1 (OCM1\_5\_2001) - POSSIBLE ESTABLISHMENT OF A RESTAURANT/CAFE ON BIBRA LAKE RESERVE 6208, PROGRESS DRIVE (1101399) (RWB)**

**RECOMMENDATION**

That a report be presented to a future Council Meeting on the possibility of establishing a restaurant, café or fixed-building kiosk on the Bibra Lake Reserve.

**COUNCIL DECISION**

**Background**

Deputy Mayor Graham gave written notice of his intention to move the following motion at the Council Meeting to be held on the 15th May 2001:-

"That a report be presented to a future Council Meeting on the possibility of establishing a restaurant, café or fixed-building kiosk on the Bibra Lake Reserve."

**Submission**

N/A

**Report**

The proposal to ascertain landuse for Bibra Lake Reserve 6208 to establish a facility is supported. Dependent upon that outcome, a



further report will be presented to Council for consideration, for allocating funds for a feasibility study on the various options.

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

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

### **Budget/Financial Implications**

If a feasibility study results from this recommendation, funds will be required for a commitment.

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

If development of any facility occurs, it could be subject to private enterprise involvement.

## **19.2 (OCM1\_5\_2001) - CREATION OF POLICY - FINANCIAL ASSISTANCE FOR LEGAL REPRESENTATION (1335) (RWB)**

### **RECOMMENDATION**

That:

- (1) it is the Council's opinion that:
  - a) It should adopt a policy providing financial assistance for legal fees incurred by Elected Members and Employees in specific situations.
  - b) The policy should provide up-front financial assistance for legal fee liability incurred as a result of an investigation initiated -
    - i pursuant to s8.3 of the Local Government Act 1995 (WA), (A "Departmental Investigation")
    - ii pursuant to s8.16 of the Local Government Act 1995 (WA), (an "Inquiry Panel Investigation").
  - c) The policy should provide for conditions under which financial assistance shall be withdrawn or reclaimed if already paid.
- (2) the Chief Executive Officer:
  - a) Arrange for a draft policy and associated delegated authority, consistent with this opinion, to be presented to Council for it to consider.

- b) Arrange for legal advice to be sought from Mr John Woodhouse of Watts and Woodhouse Solicitors, in relation to drafting the policy.

## COUNCIL DECISION

### Background

Deputy Mayor Graham gave written notice of his intention to move the following motion at the Council Meeting to be held on the 15th May 2001:-

" That:

- (1) it is the Council's opinion that:
  - a) It should adopt a policy providing financial assistance for legal fees incurred by Elected Members and Employees in specific situations.
  - b) The policy should provide up-front financial assistance for legal fee liability incurred as a result of an investigation initiated -
    - i pursuant to s8.3 of the Local Government Act 1995 (WA), (A "Departmental Investigation")
    - ii pursuant to s8.16 of the Local Government Act 1995 (WA), (an "Inquiry Panel Investigation").
  - c) The policy should provide for conditions under which financial assistance shall be withdrawn or reclaimed if already paid.
- (2) the Chief Executive Officer shall:
  - a) Arrange for a draft policy and associated delegated authority, consistent with this opinion, to be presented to Council for it to consider.
  - b) Arrange for legal advice to be sought from Mr John Woodhouse of Watts and Woodhouse Solicitors, in relation to drafting the policy. "

### Submission

N/A

**Report**

Council previously had a policy which was revoked following the Douglas Inquiry. The Department of Local Government has previously circulated councils, suggesting that councils consider establishing a policy.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

Legal costs for the preparation of the policy can be met.

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

Nil

**20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

Nil

**21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY COUNCILLORS OR OFFICERS**

Nil

**22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

Nil

**23. CONFIDENTIAL BUSINESS**

Nil

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

**24.1 (OCM1\_5\_2001) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

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

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

**25. CLOSURE OF MEETING**

Nil