

CITY OF COCKBURN

SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON WEDNESDAY, 22 JUNE 2005 AT 5:30 PM

	Page
1. DECLARATION OF MEETING	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED).....	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER)	1
4 (SCM 22/06/2005) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)	2
5 (SCM 22/06/2005) - 5 APOLOGIES & LEAVE OF ABSENCE	2
6 (SCM 22/06/2005) - PUBLIC QUESTION TIME	2
7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS.....	4
8 (SCM 22/06/2005) - PURPOSE OF MEETING	4
9. COUNCIL MATTERS.....	4
9.1 <u>(MINUTE NO 2850)</u> (SCM 22/06/2005) - PORT COOGEE AMENDMENT NO. 3 TO TOWN PLANNING SCHME NO. 3 (93009) (MR) (ATTACH)	4
10. <u>(MINUTE NO 2851)</u> (SCM 22/06/2005) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995).....	9
11 (SCM 22/06/2005) - CLOSURE OF MEETING.....	9

CITY OF COCKBURN

MINUTES OF SPECIAL COUNCIL MEETING HELD ON WEDNESDAY, 22 JUNE 2005 AT 5:30 PM

PRESENT:

ELECTED MEMBERS

Mr S Lee	-	Mayor	
Mr I Whitfield	-	Councillor	(From 5.34pm)
Mr K Allen	-	Councillor	(From 5.34pm)
Ms L Goncalves	-	Councillor	
Mr T Romano	-	Councillor	
Mr J Baker	-	Councillor	
Mrs S Limbert	-	Councillor	
Mrs V Oliver	-	Councillor	

IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr M. Ross	-	Acting Director, Planning & Development
Mr A. Jones	-	Communications Manager
Ms V. Viljoen	-	Personal Assistant to the CEO

1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 5.30pm and advised the meeting that as Clrs Allen and Whitfield were otherwise engaged in witnessing a document for a member of the public, the meeting would adjourn until their return. Clrs Allen and Whitfield returned to the meeting at 5.34pm, at which time the Presiding Member resumed the meeting.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil.

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

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written



advice from the Council prior to taking action on any matter that they may have before Council.

4 (SCM 22/06/2005) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)

The Presiding Member advised that he had received a written declaration of a Proximity interest from Cllr Allen in relation to Item 9.1, the interest being due to the proximity of his property to the proposal. Mayor Lee advised that Council had received a letter from the Department of Local Government and Regional Development advising that the Minister, through the Director Governance and Statutory Support had given approval for Cllr Allen to fully participate in the discussion and decision-making process relating to the proposed Port Coogee Marina Development.

5 (SCM 22/06/2005) - 5 APOLOGIES & LEAVE OF ABSENCE

Deputy Mayor Graham - Apology
Cllr Tilbury - Apology

6 (SCM 22/06/2005) - PUBLIC QUESTION TIME

Andrew Sullivan – Spokesperson for Coogee Coastal Action Coalition, Coogee – regarding the Town Planning Scheme (TPS) Amendment. Mr Sullivan was confused on Saturday when the Minister for Planning was purported to be signing the Amendment and a Press Release stated that the Amendment had been signed off, yet Council had the Amendment before it for ratification before the Minister signed off on the TPS. Mr Sullivan requested clarification.

Mr Sullivan believed the Agenda item did not include the changes from the previous Scheme proposal. The community had stated its position on 8 storey buildings and would hope Council, as it is entitled to do, would send the TPS back to the Minister such that it would restrict the heights to five stories and did not allow consideration of eight stories. If Council left that in, as currently stated, it would either be constantly considering applications or it would be losing appeals and losing control.

Another aspect was the issue of the ground floor uses in the marina village. CCAC had constantly recommended that Council restrict this to commercial retail and mixed business with no residential, or restrict it to foyers to residential floors above. If Council did not it will get many proposals to have residential on the ground floor and will not get the marina village it is expecting. It will not be like Hillarys if it is residential on the ground floor.

Mr Sullivan was concerned that if there was going to be commercial on the ground floor, the issue of car parking had still not been resolved. By CCAC



calculation, there will be two levels of under-croft car parking within the R160 developments throughout the site, which would be individual parking for the public not integrated with one another and not desirable for a town centre on the coast.

Mr Sullivan believe the timeframe issue was obviously very short notice for a Council meeting, and he was concerned that the haste was not warranted and that Council had 42 days. Council had had extensions in the past. There was no reason to be forced into a decision when a normal Council meeting was scheduled within a couple of weeks.

Mayor Lee thanked Mr Sullivan and responded that in relation to the parking, the Scheme set certain standards and that is law. Council has set certain conditions on this development which were over and above that law and had said consistently that Council would deal with parking provisions as and when the development plans came before Council. With respect to what the Minister signed on Saturday, Mr Sullivan would have to correspond with the Minister direct. Regarding ground floor retail, Council had set a condition that there would be ground floor retail unless Council decided otherwise, so it was at the discretion of Council what does or does not go into the ground floor in the long term or the short term.

Chris Lewis – General Manager of Australand and Director of PCD – thanked Council for making the time to consider the subject matter of the meeting at such short notice. Mr Lewis asked that Council be aware that the amendments that are noted are simply amendments that enshrine the decisions that Council made when it considered the Structure Plan and Town Planning Scheme amendments last March. The changes limit height in the lower density areas which Council placed a condition on, they demand design criteria is addressed within the marina village, it also confirms that commercial uses in the R80 density sites over and above what is provided for in the marina village and a neighbourhood centre. Also these amendments obviously align themselves with the State Government's policies in regard to height along the coastal foreshore.

Mayor Lee thanked Mr Lewis for his comments.

Robyn Scherr, Coogee – advised that both the Mayor and Mr Lewis were sitting either side of the Minister when she signed the Town Planning Scheme Amendment. Why can't you say whether the Minister has already signed off on the TPS Amendment.

Mayor Lee responded by advising that if Mrs Scherr wished to know what the Minister did or didn't do, then he suggested she correspond with the Minister.

Mrs Scherr advised she had been attending Council meetings over the past couple of years and to anyone who has observed these meetings, there are times when a person coming up to the microphone would think "why on earth



do I bother” and that is an awful condemnation of the Mayor and this Council. Mrs Scherr cannot believe the way the Mayor constantly treat the members of the community, and we will not be denied.

7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS

Nil

8 (SCM 22/06/2005) - PURPOSE OF MEETING

The purpose of the meeting is to ratify the Town Planning Scheme Amendment No. 3 for Port Coogee.

9. COUNCIL MATTERS

9.1 (MINUTE NO 2850) (SCM 22/06/2005) - PORT COOGEE AMENDMENT NO. 3 TO TOWN PLANNING SCHME NO. 3 (93009) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the final modifications requested by the Minister for Planning and Infrastructure to Amendment No 3 to the City of Cockburn Town Planning Scheme No 3 as follows:-

Amending the Scheme Map by:-

Modify the boundary of Town Planning Scheme No 3 to include all of the area now included within the Municipal boundary.

Amending the Scheme text by:-

Modifying provision 12 of DA22 with the following:-

12. No commercial fishing boats are permitted to enter or use the marina, or carry out commercial fishing operations in or from the waterways.

Replace provision 17 of DA22 with the following:-

- 17 (a) The ground floor of all proposed development within the Marina Village shall be set aside for commercial, retail or mixed business uses and may not be used for any other purpose unless the Council decides otherwise; and

(b) In areas immediately adjacent to the Marina Village which



are coded R80 or higher density, and shown on the Structure Plan, where development is proposed to be two storeys or higher, the ground floor shall be set aside for commercial, retail or mixed business uses where such uses can, in the opinion of the Council, complement uses in the Marina Village, and may not be used for any other purpose unless the Council decides otherwise.

Replace provision 18 of DA22 with the following:-

18. Development within the R20, R25, R30 and R40 coded residential areas is restricted to two storeys in height plus a loft.

Add new provision 21 of DA22 as follows:-

21. Within the Marina Village, and local centre areas coded R80, development is restricted to a maximum of eight stories. The height of buildings in residential R60 and R80 areas should be limited to a maximum of five storeys (and not exceeding 21 metres) in height. Higher structures up to a maximum of eight storeys (and not exceeding 32 metres) in height may be permitted where:-

- (a) there is broad community support for the higher buildings following a process of full consultation;
- (b) the proposed development(s) is suitable for the location taking into account the built form, topography and landscape character of the surrounding area;
- (c) the location is part of a major tourist or activity node;
- (d) the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and
- (e) there is visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.

- (2) forward the modified scheme amendment documents duly signed to the Western Australian Planning Commission requesting that the Hon. Minister for Planning grant final approval under the Town Planning Regulation 21.
- (3) advise the applicant of the Council's decision accordingly.



COUNCIL DECISION

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

CARRIED 7/1

Background

Council at its Ordinary Meeting held on 16 March 2004 resolved to grant final adoption to the Port Coogee Scheme Amendment subject to various provisions.

Submission

The Western Australian Planning Commission advised the City of the Minister's determination via letter on 20 June 2005 as follows:-

"The Commission advises Council of the State Government's commitment to limit high rise developments on the State's coast so that development would generally be kept at five storeys, with local Councils able to settle lower maximums through town planning schemes. The policy commitment also includes a provision that higher structures up to eight storeys may be permitted in some centres of high activity but only if the proposed development has broad community support and is based on appropriate and high quality design standards. This policy is to be given effect by way of legislation being introduced into Parliament to amend local government town planning schemes to incorporate the height limits. In the interim the government's policy may be given effect by the Commission by way of:

- (a) an amendment to Statement of Planning Policy 2.6 (State Coastal Policy)*
- (b) a resolution under Clause 32 of the Metropolitan Region Scheme; or*
- (c) calling in for Commission determination developments exceeding the height limits.*

The Council should have due regard to this policy in considering any proposal for high rise building in the marina village.

The Minister for Planning and Infrastructure has noted that most of the submissions received on the amendment related to the structure plan. The Minister dismissed the submissions of objection to the amendment, upheld submissions supporting the amendment, and has decided not to approve the amendment, as already modified by Council, until such time as Council further modifies the amendment as shown in the attached Schedule of Modifications."



The schedule of modifications accords with the Staff recommendation above.

Report

Regulation 21 (1) allows the Minister to direct Council to modify the scheme amendment in such manner as the Minister may specify before approval is given.

Regulation 21(2) requires Council to within 42 days of being notified to modify the scheme amendment in the manner specified by the Minister. Council is required by the Regulations to carry out these modifications and forward three copies of the modified scheme amendment documents to the Commission for final approval.

Council is effectively directed by the Minister to give effect to these changes in the manner required by the Minister. If the Council doesn't accept the modifications the Council could for example set lower building height limits than that requested and put this forward to the Minister for reconsideration.

Nevertheless the scheme text and map changes requested by the Minister are considered acceptable from a local planning point of view as the height limits correspond with the low, medium and high residential densities adopted by Council on the Port Coogee Structure Plan. The Minister has also not directed that the modifications need to be advertised for public comment.

The changes to the scheme amendment need to be gazetted by 30 June 2005, as the City is aware that the project agreement will lapse. The cut-off for the Government Printer is Friday, 24 June 2005. For the Minister to endorse the scheme amendment the Council must make a decision by the 23 June 2005.

It is recommended that Council adopt the modifications requested by the Minister accordingly.

Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas that apply are:

- *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
- *"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."*
- *"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."*
- *"To facilitate and provide an optimum range of community services."*
- *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
- *"To determine by best practice, the most appropriate range of recreation areas to be provided within the district to meet the needs of all age groups within the community."*

The Council Policies that are relevant are:

- APD4 Public Open Space
- APD28 Public Open Space Credit Calculations
- APD30 Access Street/Road Reserve & Pavement Standards
- APD31 Detailed Area Plans
- APD32 Residential Design Codes
- APD36 Shopping Centres and Service Stations

Budget/Financial Implications

Nil

Legal Implications

Town Planning and Development Act
Town Planning Regulations
Town Planning Scheme No 3

Council staff has sought legal advice from McLeods, which was received on 21 June 2005, that this decision not be taken under delegated authority and to be put before Council.

Community Consultation

Council has satisfied its requirements under the Regulations relating to public consultation and as not be directed by the Minister for Planning



and Infrastructure to advertise the modifications to the scheme amendment.

Attachment(s)

Letter from Western Australian Planning Commission dated 20 June 2005.

Advice to Proponent(s)/Applicant

The proponent has been advised that this matter has been referred to this Special Meeting of Council.

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

Nil

10. (MINUTE NO 2851) (SCM 22/06/2005) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)

RECOMMENDATION

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

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) 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
- (3) managed efficiently and effectively.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr K Allen that the recommendation be adopted.

CARRIED 8/0

11 (SCM 22/06/2005) - CLOSURE OF MEETING

Meeting closed at 5.48pm



CONFIRMATION OF MINUTES

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

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

