

Our Ref: 1100231

16th September, 1998

TO ALL COUNCILLORS

Dear Councillor,

Re: SPECIAL COUNCIL MEETING – 17th SEPTEMBER 1998

This is to advise that, as per the Council decision of the 15th September 1998, a Special Meeting of Council will be held on **Thursday, 17th September 1998**, commencing at 7:30pm in the Council Chambers (no dinner provided).

The purpose of the meeting is:

- (1) To consider changing the Council decision of the 3rd August 1998, relative to the Business Plan for a Major Land Transaction - Progress Drive, Bibra Lake;
- (2) Subject to the outcome of the consideration of (1) above, to consider the response from the Minister for the Environment in answer to Council's request to install the W.A. Croatian Association (Inc.) as the proponent for proposed Lot 1 and proposed Lot 2; and
- (3) Subject to the outcome of the consideration of (1) and (2) above, to determine Development approval Conditions for the proposed development of Soccer and Recreational facilities on Lots 14 and 22 Progress Drive, Bibra Lake.

As most Councillors left their laptops at the Council meeting, we have enclosed a hard copy of the Agenda.

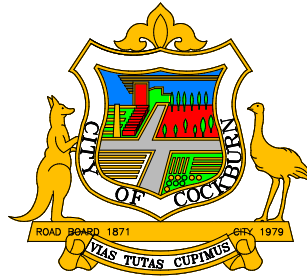
Please advise my secretary if you are unable to attend.

Yours faithfully,

ROD BROWN
CHIEF EXECUTIVE OFFICER

RWB:SE

CITY OF COCKBURN



SPECIAL COUNCIL

AGENDA PAPER

**FOR
THURSDAY 17 SEPTEMBER 1998**

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON THURSDAY, 17 SEPTEMBER 1998 AT 7:30P.M.

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON THURSDAY, 17 SEPTEMBER 1998 AT 7:30 P.M.

1. APPOINTMENT OF PRESIDING MEMBER [IF REQUIRED]

2. PUBLIC ADDRESS SESSION

3. APOLOGIES & LEAVE OF ABSENCE

Clr Elpitelli - Apology

4. PURPOSE OF MEETING

- (1) To consider changing the Council decision of the 3rd August 1998, relative to the Business Plan for a Major Land Transaction - Progress Drive, Bibra Lake;
- (2) Subject to the outcome of the consideration of (1) above, to consider the response from the Minister for the Environment in answer to Council's request to install the W.A. Croatian Association (Inc.) as the proponent for proposed Lot 1 and proposed Lot 2; and
- (3) Subject to the outcome of the consideration of (1) and (2) above, to determine Development approval conditions for the proposed development of Soccer and Recreational facilities on Lots 14 and 22 Progress Drive, Bibra Lake.

5. **(SCM9/98) - PROPOSED REVOCATION OF COUNCIL DECISION - 3rd August 1998 (1103) (DMG)**

RECOMMENDATION

That Council, in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996, revoke part 6 of the resolution of Council dated 3 August 1998 which reads:

"That all of the above being subject to the Minister for the Environment agreeing to the proponent of the development being the WACA in regards to proposed Lot 1 and proposed Lot 2 and not the City of Cockburn."

NOTE: THIS REQUIRES EIGHT (8) COUNCILLORS TO INDICATE THEIR SUPPORT FOR THE REVOCATION.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

That Council:

Background

At the Council Meeting conducted on the 15th September 1998, an item was placed before Council to consider revoking a part of a previous Council resolution carried on the 3rd August 1998. The revocation motion was subsequently lost due to the lack of an Absolute Majority of Council voting in support of the motion.

Following this, a resolution was passed to conduct a Special Meeting of Council on the 17th September 1998, to reconsider the matters contained in Agenda Items 8.4 and 8.5 of the Council Meeting held on the 15th September 1998.

Submission

In order for this process to comply with the legal requirements imposed by the Local Government Act 1995, it is necessary for an Absolute Majority of Council to indicate their support for the matter being considered, in addition to the recommended motion being carried by an Absolute Majority of Council.

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

6. (SCM9/98) - BUSINESS PLAN FOR A MAJOR LAND TRANSACTION - PROGRESS DRIVE, BIBRA LAKE - FORMAL RESPONSE FROM THE MINISTER FOR THE ENVIRONMENT (1100231) (LCD)

RECOMMENDATION

That Council resolve to:

- (1) Receive the letter from the Minister for the Environment dated 24 August 1998, in response to Council's request to install the WA Croatian Association (Inc.) as the proponent for proposed Lot 1 and proposed Lot 2;
- (2) Agree that Council and the WA Croatian Association (Inc.) be jointly and severally liable for the conditions and commitments relating to the development of Stage 1 of the project excluding the development on proposed Lot 1 (which is depicted on the plan that forms part of this item of business) at least until the project has substantially commenced; and
- (3) As soon as regular results have been demonstrated in relation to the monitoring of the ground water, a formal application be made to the Minister for the Environment to install the WA Croatian Association (Inc.) as the proponent for proposed Lot 2 and such shall form part of the lease in respects to the before mentioned property.

COUNCIL DECISION

That Council:

Background

Council, at its meeting held on 3 August 1998, adopted the following resolution:

“That Council resolve to:

- (1) Receive the submissions lodged as recorded in the Schedule of Submissions;
- (2) In consideration of the submissions received, proceed with the sale of Lot 1 Progress Drive, Bibra Lake and the lease of Lot 2 Progress Drive, Bibra Lake to the W.A. Croatian Association (Inc.) as proposed in the Business Plan prepared for this purpose;
- (3) Determine the extent of works to be undertaken with Council funds during 1998/99 up to an amount of \$222,450.00, as identified in the Schedule of Works contained in the Business Plan;
- (4) Inform all persons who lodged a submission of Council’s decision and of Council’s comment and response to their particular submission;
- (5) That the \$50,000.00 for Lot 3 earthworks be moved to future costs and to be determined when the need for the further playing fields is demonstrated and that this, being part 5., be considered a determination of 3. Above;
- (6) That all of the above being subject to the Minister for the Environment agreeing to the proponent of the development being the WACA in regards to proposed Lot 1 and proposed Lot 2 and not the City of Cockburn.

Part 6 of the aforementioned resolution does not permit the proposal to proceed unless the Minister for the Environment agrees to install the WA Croatian Association (Inc.) as the proponent for the development of Lot 1 and Lot 2.

The administration, with respects to part 4 above, has been implemented.

Submission

The Minister for the Environment responded to Council’s application to install the WA Croatian Association (Inc.) as the proponent for proposed Lot 1 and proposed Lot 2 on 24 August 1998, and the response reads as follows:

Note: Proposed Lot 1 is now Lot 21, proposed Lot 2 is now Lot 22 and proposed Lot 3 is now part Lot 14.

“As the City of Cockburn will be retaining ownership of Lot 22 and the wetland, I believe it would be more appropriate for the City of Cockburn and the Western Australian Croatian Association to be joint proponents. The Environmental Protection Authority (EPA) assessed the proposal on the understanding that the proponent for the development would be the City of Cockburn, at least until the project had substantially commenced. In addition, I dismissed a ground of appeal by the Conservation Council on the understanding that the City of Cockburn were to be the managers of the project.”

Joint proponentship would allow the sale of Lot 21 and the lease of Lot 22 to the nominated replacement proponent, the Western Australian Croatian Association (Inc.). Joint proponentship would also provide the expertise and resources of the City of Cockburn to the ongoing management of the project. Both parties will be jointly and severally liable for the conditions and commitments relating to the development.”

Report

It should be noted at the outset, that the preliminary survey identified the proposed subdivided property as Lot 1 [proposed to be sold to the WA Croatian Association (Inc.)], Lot 2 [to be leased to the WA Croatian Association (Inc.) for the development of a soccer pitch] and Lot 3 [Balance of Lot 14 Progress Drive]. However, the Diagram of Survey lodged with the Land Titles Office identifies the proposed subdivided property as Lot 21 [Lot 1], Lot 22 [Lot 2] and Part Lot 14 [Lot 3].

The Minister for the Environment has advised that both the Council and the WA Croatian Association (Inc.) will be jointly and severally liable for the conditions and commitments relating to the development. That is, Stage 1 of the project. The components and features of Stage 1 will be dealt with later in this report. The question is for how long will this arrangement remain in force. This question it is submitted, is answered by the phrase “at least until the project had substantially commenced” which has been underscored in the Ministers letter.

Mr Kim Taylor of the Department of Environmental Protection was approached to ascertain the meaning of the phrase. The phrase means “when the soccer pitch is in place, monitoring procedures have been implemented and regular results are demonstrated.”

With respects to the foregoing such is governed by the development time frame of the soccer pitch, which at this point in time is not known. Taking a hypothetical view for no other reason than to foster discussion assume the soccer pitch development is completed within six [6] months of Council's formal approval. The management of the soccer pitch itself is subject to the Nutrient and Irrigation Management Plan [approved by the EPA] and the monitoring procedures will continue for a period of twelve [12] months. It is at the conclusion of this period that the monitoring results will be evaluated. Assuming that the results are satisfactory then there is no reason for not making an application to the Minister for the Environment to install the WA Croatian Association (Inc.) as the proponent for Lot 22. However, if the results are unsatisfactory then monitoring of the ground water will continue until the results are satisfactory.

The Minister's decision to make the City and the WA Croatian Association (Inc.) jointly and severally liable for the conditions and commitments, in respects to Lot 22 is in essence mirroring the decision of Council dated 3 June 1998. Council has resolved that Statement No. 000475 [which contains the conditions and commitments] is to form part of the contract of sale for Lot 21, which will be held in fee simple by the WA Croatian Association (Inc.). The conditions and commitments are also to form part of the lease for Lot 22. This decision places a common law obligation on the Association to comply with the conditions and commitments. Furthermore, Council has resolved that the Compliance Audit costs would be shared on an equal basis between the City and the Association.

The components and features of Stage 1 of the project are shown in Figure 1 below and this information can be related to Figure 2 (attached) which depicts a diagram of the property; Stage 1 has been hatched. Although the clubhouse and viewing stand is shown in Stage 1 Council has no involvement in this aspect of Stage 1 because the clubhouse will be built on private property.

FIGURE 1
Stage 1 – Components and Features

Components	Features
Senior Soccer Pitch	High Grade Turf Cut/Fill Viewing Mounds
Bore No. 1	Bore
Irrigation System	Automatic Reticulation to Pitch, Car Parks and Landscaping
Clubhouse and Viewing Stand	To be designed to high Seating at front [plan 2]
Offsite Sewage Disposal	Gravity flow to pump out wet Well, thence rising main to main sewer.
Car Parking Areas	Two bitumen car parks Landscaped and drained
Access Road	Bitumen road
Pedestrian Path	Limestone Path
Picnic Area	Irrigated turf
Drainage and Nutrient Management System	Detention and absorption Basins and drains
Tree Planting	Native trees and shrubs

Turning now to the issue of implications. What are the implications to Council in relation to Stage 1 of the project?

- Lot 21 Progress Drive, Bibra Lake

It is intended that the WA Croatian Association (Inc.) will hold this property in private ownership. The involvement Council will have in respects to this property is the adoption of Development Approvals to be recommended to the Western Australian Planning Commission.

- Lot 22 Progress Drive, Bibra Lake

The Minister for the Environment has advised that both Council and the WA Croatian Association (Inc.) will be jointly and severally liable.

The property is to be leased to the WA Croatian Association (Inc.) and the Association is required to develop the soccer pitch. The Association will also be responsible for compliance with the provision of the Nutrient and Irrigation Management

Plan. Council has stipulated that such will be a common law liability.

Council has resolved that both Council and the Association will equally share the costs of the compliance audit. An Independent party, which is estimate cost in the vicinity of \$6,000.00 to does the compliance audit, and the costs are to shared equally between the City and the Association.

Basically Council will have a monitoring role in relation to this property.

- Part Lot 14 Progress Drive, Bibra Lake

Part Lot 14 Progress Drive will remain in the ownership of the City of Cockburn. The Nutrient and irrigation Management Plan applies to Part Lot 14 as well but will not be implemented until such time as Part Lot 14 is developed.

It is not considered that the Minister's response in not agreeing that the W.A.C.A. be the sole proponent of the overall development of both lots (previously known as Lot 1 and Lot 2), represents a significant departure from the Business Plan previously adopted by Council. Therefore, an Absolute Majority of Council is not necessary for this matter, as recommended, to be carried. A simple majority will be sufficient to carry such a resolution.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The financial implications were previously outlined in the Business Plan.

7. **(SCM9/98) - PROPOSED DEVELOPMENT APPROVAL CONDITIONS - SOCCER AND RECREATIONAL DEVELOPMENT - LOTS PT 14 AND 22 PROGRESS DRIVE, BIBRA LAKE (1100231) (NORTH) (SR)**

RECOMMENDATION

That Council resolve to:

(1) Recommend to the Western Australian Planning Commission

that the following Development Approval conditions apply to the development of Lots 21, 22 and Part Lot 14 Progress Drive, Bibra Lake;

1. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development shall be carried out without the further approval of the responsible authority having first been sought and obtained,
2. Retaining wall(s) being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.,
3. The lot is included in the Eighth Schedule "District Heritage Significant Place in the Council's District Zoning Scheme No. 2 and therefore the Moreton Bay Fig trees are required to be protected and preserved.,
4. A plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the Council as a separate application;
5. A landscape plan must be submitted to the Council and approved. For the purpose of these conditions a landscape plan shall be drawn to a scale of 1 : 100 and shall show the following:
 - (a) the location and type of existing and proposed trees and shrubs
 - (b) any lawns to be established
 - (c) any natural landscape areas to be retained; and
 - (d) those areas to be reticulated or irrigated.
6. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved, without the written consent of the Council;
7. The landscaping, in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of Council;
8. All existing trees and vegetation within the area

designated "Conservation Section" on the attached plan are to be preserved to the satisfaction of the Council.,

9. Satisfactory arrangements being made with the Council for the provision of an easement for sewerage and other services required by the development,
10. Earthworks over the site and batters must be stabilized to prevent sand blowing, and appropriate measures shall be implemented within the time and in the manner directed by the Council in the c-vent that sand is blown from the site.,
11. Prior to applying for a Building Licence or commencement any site works a detailed contour plan showing existing contours and proposed contours shall be submitted. For the area of the site within ten [101 metres of Tappers Lake and the Moreton Bay fig trees the contours on the plan shall be depicted at a contour interval of at least 0.3 of a metre.,
12. Prior to applying for a Building Licence or the commencement of site works a detailed plan depicting the development of the soccer pitch area, seating and associated structures shall be submitted.,
13. The development must be connected to the Water Corporation's sewer;
14. All earthworks and/or associated drainage details shall be in accordance with plans and specifications submitted to and approved by the Council;
15. The vehicle parking area shall be sealed, drained and line marked in accordance with the approved plans and specifications,
16. A Building Licence must be issued before any work commences on the site,
17. The applicant providing the Council with a plan showing the exact location of any bores and/or wells on the site prior to applying for a Building Licence;
18. A detailed plan of all food preparation and storage and refuse areas must be submitted with an application for approval to establish a food premises in conjunction with

the Building Licence application.,

19. Submission of mechanical engineering design drawings and specifications, together with certification by the design engineer that satisfy the requirements of the Australian Standard 3666 of 1989 for Air Handling and Water Systems, is to be submitted in conjunction with the Building Licence application.
20. A minimum of four [4] disabled carbays designed in accordance with Australian Standard 2890.1 - 1993 is to be provided in a location convenient to, and connected via a continuous accessible path/s to, the main entrance of the building/facility. Design and signage of the bay/s and path/s is to be in accordance with Australian Standard 1428.1 - 1993. Detailed plans and specifications illustrating the means of compliance with this condition are to be submitted in conjunction with the Building Licence application.,
21. Until the Council has Issued a certificate of Classification under Regulation 20 of the Building regulations 1989, there shall be no approval to use the building for the purposes of the development herein conditionally approved and the land shall not be used for any purpose,
22. Refuse bins adequate to service the development shall be provided to the satisfaction of the Council before the development is occupied or used,
23. Prior to the commencement of any on-site works, structural, detailed design and other plans required for a Building Licence application for the Clubhouse and ancillary structures are to be submitted and approved by the Council,
24. Satisfactory arrangements being made with Council for the implementation of the Environmental Management Commitments and Ministerial Conditions comprised in Ministerial Statement number 000475-,
25. The approval is to exclude any works outside the area depicted as Stage 1 on the attached plan.

ADVISORY FOOTNOTES

1. Access and facilities for disabled persons is to be provided in accordance with the requirements of the

Building Code of Australia.

2. This development has been defined as a public building and shall comply with the provisions of the Health Act 1911 relating to a public building, the Public Building Regulations. An application to construct, extend or alter a public building is to be submitted with the Building Licence application.

COUNCIL DECISION

That Council:

Background

The Ministry for Planning / WAPC granted approval 'in principle' to the proposed plan for the soccer / recreational development on Lot 14 Progress Drive on 27 June 1996.

On 6 August 1996, Council authorised consultant, Mr Dave Overall, to prepare / coordinate (inter alia) "WAPC, DEP and other statutory approvals required for the overall concept plan development, subdivision and sale of the land."; and "Environmental Management Plan and other matters required by the WAPC letter dated 27 June 1996."

The Consultative Environmental Review process during 1997 developed the environmental conditions to apply to the development. These were confirmed via the Minister for the Environment's approval.

A formal MRS Development Application was submitted to the WAPC on 8 January 1998, following the Department of Environmental Protection's Recommendations being published in November 1997. With the finalisation of the Minister for the Environment's approval and matters relating to the Business Plan now resolved, WAPC development approval may now be finalised.

Submission

The components of the development are detailed in Item 8.4 of this Agenda.

Report

Environmental conditions and other details relevant to the project have been previously presented to Council, most recently via the Special Council Meeting held on 3 June 1998.

As the land is reserved for 'Parks and Recreation' under the Metropolitan Region Scheme, the WAPC is the planning decision making authority, having regard to the advice of the Council regarding recommended conditions of approval.

These conditions are contained in the Attachment to the Agenda.

Conditions 1 - 7, 10, 13 - 22 are 'Standard Conditions' contained within Council Policy PD 20. Conditions 8, 9, 11, 23 - 25 are 'Special Conditions' particular to the Lot 14 project. Reference is also made to the Figure 5 attachment to the Special Council Meeting 3 June 1998 depicting the 'Conservation Zone' applicable to the development.

Strategic Plan/Policy Implications

Council Policy PD 20.

Budget/Financial Implications

Refer Item 8.4.