

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON TUESDAY, 22 APRIL 2003 AT 5:30 PM

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## CITY OF COCKBURN

### SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON TUESDAY, 22 APRIL 2003 AT 5:30 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr S Lee	-	Mayor
Mr R Graham	-	Deputy Mayor
Ms A Tilbury	-	Councillor
Mr I Whitfield	-	Councillor
Mr A Edwards	-	Councillor
Mr K Allen	-	Councillor
Mr L Humphreys	-	Councillor
Mrs N Waters	-	Councillor
Mr M Reeve-Fowkes	-	Councillor
Mrs V Oliver	-	Councillor

##### IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr A. Blood	-	Manager, Planning Services
Mrs S. Ellis	-	Secretary to Chief Executive Officer
Mr C. Ellis	-	Communications Manager

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 5.30 pm.

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

Nil

#### 3. DISCLAIMER (Read aloud by Presiding Member)

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



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

Nil

**5. APOLOGIES & LEAVE OF ABSENCE**

Nil

**6. PUBLIC QUESTION TIME**

**Alistair Wardle**, Coolbellup asked firstly if the officer's recommendation complies with the Draft Coastal Planning Policy; and given the State Government's recently announced Planning Policy, does Council consider it prudent and morally appropriate to delay a decision on this matter?

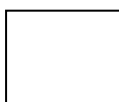
Mayor Lee responded that Mr Rogers was well aware of the Policy and took it into account when writing his report. He also added that he believed Council is morally bound to go ahead because Elected Members are put there to make these decisions and people want this café to go ahead. So the answer was no, it was not prudent to delay a decision.

**Colin Crook**, Spearwood questioned the basis of the Mayor's comment that the public want the café given that there has been no public comment yet. He also criticised Council for the matter being dealt with so urgently and the perception that Council is being secretive by not including the public. He explained that an issue dealing with the café was passed as a late item at the March Council Meeting, then this meeting was called urgently without proper advertising and on 6 May another Special Meeting will deal with it. He reiterated his question as to why it has all been done in such a rush.

Mayor Lee stated that Councillors have individually received feedback and pressure from the community for many years. He also explained that notices of this meeting were posted at the front counter.

Mr Crook queried with regard to point (5) of the recommendation "*agree to an initial lease period of 20 years..... with an option for a further period of up to 20 years*". He stated that the criteria for having a setback of 30m instead of 100 is that any building put on the lot is built by a government instrumentality and has a 30 year lifespan but this recommendation is suggesting 40 years and he believed that needed to be reconsidered.

Manager Planning Services responded that the decision for the initial 20 year lease period with the option for a 20 year extension was made by Council on 18 February 2003. Mr Rogers preferred to suggest a 20 year initial period,



review the amount of erosion during that period and make an assessment of the potential risk for the next 20 years. This recommendation is therefore a variation on the decision made by Council in February.

Mr Crook, in assuming that Council would vote for alternative option 2 instead of the one recommended, asked for an explanation as to why there is a discrepancy in point 5 *“that a further period of up to 20 years as recommended by MP Rogers”* as Mr Rogers did not recommend anything about the second 20 year period.

Manager Planning Services clarified that page 10 of Mr Rogers’ Report talks about a recommended setback distance and goes into recommendations such as *“this assessment has been made on the basis that Council will retain the right not to review the lease after the first 20 year period should there be an unacceptable risk from coastal erosion after the first 20 years”*. What staff tried to do was reflect the words directly from Mr Roger’s report.

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

Nil

## 8. PURPOSE OF MEETING

The purpose of the meeting is for Council to consider the ramifications of the Coastal Engineer’s Report for the Coogee Café/Kiosk proposed development, with due regard to the setbacks required and building design.

## 9. COUNCIL MATTERS

### 9.1 (MINUTE NO 1996) (SCM 22/04/2003) - COOGEE BEACH CAFÉ/KIOSK - RESERVE 46664 (AJB) (3319158) (ATTACH)

#### RECOMMENDATION

That Council:-

- (1) receive the report;
- (2) note the MP Rogers and Associates conclusion that assessing the proposed café/kiosk development at Coogee Beach as a special case in terms of the Draft State Coastal Planning Policy, results in a required setback of 30 metres from the present day coastal vegetation which is 7 metres more than the 23 metres



shown on the schematic drawings prepared by Hoffman and Associates adopted by Council on 18 February 2003;

- (3) adopt MP Rogers and Associates recommended option 1 that the City modify the café/kiosk proposal by moving the building approximately 7 metres landward and ensure that there is a 30 metre setback distance from the present day coastal vegetation;
- (4) request Hoffman Architects to prepare modified plans for the café /kiosk on the basis of a 30 metre setback and these be used as the basis for the MRS Form 1 Application for Approval to Commence Development;
- (5) agree to an initial lease period of 20 years recommended by MP Rogers and Associates with an option for a further period of up to 20 years, subject to:
  1. there being no significant coastal erosion during the initial period to the satisfaction of Council; and
  2. the approval of DOLA; and
- (6) advise MP Rogers and Associates and Hoffman Architects accordingly.

**COUNCIL DECISION**

MOVED Mayor S Lee SECONDED Cllr K Allen that Council:-

- (1) receive the report;
- (2) note the MP Rogers and Associates conclusion that assessing the proposed café/kiosk development at Coogee Beach as a special case in terms of the Draft State Coastal Planning Policy results in a required setback of 30 metres from the present day coastal vegetation which is 7 metres more than the 23 metres shown on the schematic drawings prepared by Hoffman and Associates adopted by council at its meeting held on 18 February 2003;
- (3) adopt MP Rogers and Associates recommended option 2 that the City modify the café/kiosk proposal such that the seaward 7 metres of the building is of low value appropriate to the slightly increased risk of coastal erosion in the coming 20 years;
- (4) adopt the modified schematic drawings for the Coogee Beach café/kiosk prepared by Hoffman Architects dated April 2003 as the basis for the MRS Form 1 Application for Approval to Commence Development; and



- (5) agree to an initial lease period of 20 years with an option for a further period of up to 20 years as recommended by MP Rogers and Associates, subject to:
1. There being no significant coastal erosion during the initial period to the satisfaction of Council.
  2. The approval of DOLA; and
- (6) advise MP Rogers and Hoffman Architects accordingly.

**CARRIED 5/5**  
**BY CASTING VOTE OF THE PRESIDING MEMBER**

### **Explanation**

If Council is going to build a cafe/kiosk on the coast, it should maximise the benefits of its location and in this instance, that is the view. Therefore the building should be placed as far forward as possible to best enjoy the view whilst still complying with the requirements of the State Coastal Planning Policy.

### **Background**

Council at its meeting held on 18 February 2003 resolved to proceed with the proposed Coogee Beach café/kiosk. The decision amongst other things included the appointment of a suitable qualified and experienced coastal engineer to assess the environmental impact and coastal setback of the proposed development and adoption of the schematic drawings for the proposed development prepared by Hoffman Architects as the basis of the coastal assessment (Minute No 1922).

### **Submission**

N/A

### **Report**

MP Rogers and Associates were appointed to prepare the required coastal setback assessment for the proposed café/kiosk. A copy of the report is included in the Agenda attachments.

The study assessed the proposal as a special case as provided for in the Draft State Coastal Planning Policy (WAPC) given that the development is to be undertaken by a government agency for a public purpose and is likely to have a useful lifespan less than 30 years.



The assessment concluded that the development should be setback 30 metres from the present day coastal vegetation. This is some 7 metres more than that shown on the Hoffman schematic drawings which shows a setback of 23 metres from the line of vegetation.

The report recommends that the City consider one of the following options;

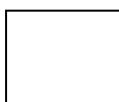
1. Moving the location of the café and kiosk building about 7 metres landward and ensure that there is a 30 metre set back distance from the present day coastal vegetation.
2. Configure the café and kiosk building so that the seaward 7 metres of the building is of low value appropriate to the slightly increased risk of coastal erosion in the coming 20 years. Simple paved or boardwalk-seating area with sails for shading may be a suitable approach. This area intruding 7 metres into the set back distance may be acceptable as the construction is of low value and somewhat expendable should adverse erosion occur in the next 20 years. In a similar way, the existing beach shelters are at higher risk of erosion threat than that recommended for the main building of the café and kiosk.

For both options, MP Rogers recommend that the City retain the right not to renew the lease after the first 20 year period should there be an unacceptable risk from coastal erosion after the first 20 years.

In considering the most appropriate option, it is necessary to balance the degree of acceptable risk, the likely impacts on attracting potential operators in a Council built facility or a developer/operator on a ground lease basis, rent potential and the physical attributes of the development.

Option 1 for relocating the building beyond the 30 metre line is supported for the following reasons;

- Minimises potential risk to Council and/or private parties.
- Does not set an undesirable precedent for other development on the coast.
- Notwithstanding the limitations of leasing requirements, this option provides a greater degree of certainty to potential operators or a developer/operator beyond the initial 20 years.
- Will have less impact on the fragile foredunes
- Can still be designed to achieve the required ocean aspect.





The clear outcome of the coastal assessment is that a 30 metre setback provides a high degree of confidence for the likely economic life of the proposed structure and hence provides a high level of certainty to both Council and potential operators on which to make economic and financial decisions. The requirement for this was borne out through the initial tender process of the ground lease which failed to attract a response given the vagaries of the costs involved and the time limitation to 20 years.

It is considered that option 2 does not provide the same degree of certainty as option 1 in that part of the infrastructure is located in an area of potential vulnerability and if, for example, the paved or decked area is destroyed, this could result in the operation not being viable due to reduced capacity. This would also be reflected in the potential rental return to Council.

Having regard to the above, Council Officers recommend that the proposed café/kiosk should proceed on the basis of a 30 metre setback from present day coastal vegetation (option 1).

In light of the outcomes of the Coastal Engineers report, the impact on the previously adopted schematic drawings prepared by Hoffman Architects and that the Council resolution of 18 February makes specific reference to the existing Hoffman plans, it is necessary for Council to require Hoffman Architects to prepare new plans to be used as the basis of the Coastal Engineers report and the submission of the MRS Form 1 Application to Commence Development to the Western Australian Planning Commission.

However, should Council decide to not accept the officer's recommendation and proceed instead with the café/kiosk on the basis of configuring the building so that the seaward 7 metres of the building is of low value appropriate to the slightly increased risk of coastal erosion as reported by MP Rogers and Associates, then the following optional recommendation could be considered:-

*That Council:-*

- (7) receive the report;*
- (8) note the MP Rogers and Associates conclusion that assessing the proposed café/kiosk development at Coogee Beach as a special case in terms of the Draft State Coastal Planning Policy results in a required setback of 30 metres from the present day coastal vegetation which is 7 metres more than the 23 metres shown on the schematic drawings prepared by Hoffman and Associates adopted by council at its meeting held on 18 February 2003;*



- (9) *adopt MP Rogers and Associates recommended option 2 that the City modify the café/kiosk proposal such that the seaward 7 metres of the building is of low value appropriate to the slightly increased risk of coastal erosion in the coming 20 years;*
- (10) *adopt the modified schematic drawings for the Coogee Beach café/kiosk prepared by Hoffman Architects dated April 2003 as the basis for the MRS Form 1 Application for Approval to Commence Development; and*
- (11) *agree to an initial lease period of 20 years with an option for a further period of up to 20 years as recommended by MP Rogers and Associates, subject to:*
  1. *There being no significant coastal erosion during the initial period to the satisfaction of Council.*
  2. *The approval of DOLA; and*
- (12) *advise MP Rogers and Hoffman Architects accordingly."*

Hoffman Architects were requested to consider the impacts of having the first 7 metres of the building with decking or paving as outlined in MP Rogers option 2 and have prepared plans showing a possible solution that Council could consider. The modified plans are included in the Agenda attachments.

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

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

### **Budget/Financial Implications**

Not determined at this stage.



**Legal Implications**

Nil

**Community Consultation**

Further consultation will be undertaken as part of the process of adopting the Business Plan.

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

Nil.

**10 (MINUTE NO 1997) (SCM 22/04/2003) - 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:-

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

**COUNCIL DECISION**

MOVED Cllr L Humphreys SECONDED Cllr I Whitfield that the recommendation be adopted.

**CARRIED 10/0**

**11. CLOSURE OF MEETING**

Meeting closed at 6.10 pm.



**CONFIRMATION OF MINUTES**

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

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

