

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 20 JUNE 2000 AT 7:30 P.M.

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 20 JUNE 2000 AT 7:30 P.M.

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#### PRESENT:

##### COUNCIL MEMBERS

Mr J F Donaldson	-	Chairperson of Joint Commission
Ms J L Smithson	-	Joint Commissioner
Mr M A Jorgensen	-	Joint Commissioner

##### IN ATTENDANCE

Mr R W Brown	-	Chief Executive Officer
Mr D M Green	-	Director Community Services
Mr A T Crothers	-	Director, Finance & Corporate Services
Mr S M Hiller	-	Director, Planning & Development
Mr B K Greay	-	Director, Engineering & Works
Mrs B Pinto	-	Secretary, Finance & Corporate Services
Ms R Edwards	-	Public Affairs Officer

#### 578. (AG Item 1) DECLARATION OF OPENING

The Presiding Member declared the meeting open at 7.35 pm.

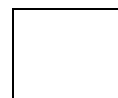
**Note:** At this point of the Meeting, Cmr Donaldson made a presentation to Mr. Len Hitchen, representing Fremantle Hospital, of \$10,000 as part of Council's overall contribution into medical research being undertaken by the hospital.

#### 579. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)

Nil

#### 580. (AG Item 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.



**581. (AG Item ) (OCM1\_6\_2000) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (by Presiding Member)**

Cmr Donaldson advised that he had received written advice from Cmr Smithson of a financial interest in Agenda Item 13.7 and 13.8 which will be read at the appropriate time.

**582. (AG Item 6.1) (OCM1\_6\_2000) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**Mrs Mary Jenkins - Public Question Time - Ordinary Council Meeting - 16 May 2000** - queried the purpose of a Shopping Centre Survey mentioned in the March Edition of Cockburn Soundings and the relevance of its questions, as she did not feel it addressed the problems relating to shopping centres.

A response dated 1st June 2000 advised that Council had resolved to prepare a Local Commercial Strategy for the City of Cockburn to determine the location, size, land use mix and related matters for all existing and planned commercial centres having due regard to the principles outlined in the WA Planning Commission's *Metropolitan Centres Policy Statement for the Perth Metropolitan Region*. The Strategy will identify the current and future requirements for both retail and other commercial activities in the region, at the regional, district, neighbourhood and local level.

The Commercial Facilities Survey was carried out as part of the preparation for the Local Commercial Strategy and was used as a method of assessing the community's shopping habits and their attitudes towards commercial facilities available in Cockburn.

An important consideration of each question, was where shoppers were travelling from to visit a retail facility. The responses are useful indicators of a shopper's needs, their travel patterns and satisfaction with local facilities. The results will be used as part of the research and analysis phase of the development of the Local Commercial Strategy and will help determine future centre sizes and changes to existing centres.

**Mr Colin Crook - Public Question Time - Special Council Meeting - 23 May 2000** - tabled a letter regarding Council's accountability to the public of Cockburn and asked if the Commissioners, in their response to the Report, would be stressing the need for more acceptance by Council of community input and accountability. The letter also referred to the 'Inquiry' not making any adverse finding against staff and



Councillors, regarding the misinterpretation of the provisions of the Town Planning Act.

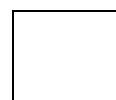
A letter dated 1st June 2000 advised that since the suspension of Councillors, the Commissioners and staff have been working together to put in place, a range of procedures/policies which will provide guidance and leadership to future elected Councillors. This includes training and the development of a policy on stewardship of Councillors including performance indicators. The adoption of such procedures/policies, will enhance the representative role of Councillors to the community.

When the misinterpretation was discovered, Council acted appropriately and requested the matter be investigated by the Department of Local Government. The Department agreed that the payment could be offset against interest earned on the account. Should it be proved that Council acted inappropriately based on the advice received, the matter would need to be addressed. Until that time, Council considers that the offset against interest earned, is a legal and appropriate way in which to handle the issue.

**Mr Colin Crook - Public Question Time - Ordinary Council Meeting - 16 May 2000** - tabled a letter which asked a number of questions regarding Public Accountability and in particular, the action taken in 1998 not to send media releases to the "Cockburn Gazette".

A response dated 1st June 2000 addressed each of Mr Crook's questions as follows:

- Q1. Was the Gazette ostracized on 25th October 1998 by an administrative verbal directive?
- A1. The Deputy Mayor at the time, Clr Joe Ostojich, acting in the absence of the Mayor who was overseas at the time, issued instructions to Council's Media Officers, not to send any media releases to the "Cockburn Gazette" or any other newspapers of the Community Newspaper Group. The Deputy Mayor issued this instruction, pursuant to Section 2.8(1)(d) of the Act, which stipulates the role of the Mayor is to "speak on behalf of the local government". This provision of the Act has legal force over and above the Policy adopted by Council, which is in the form of administrative guidance only. This directive was overturned by the Mayor on his return.
- Q2. Was the Policy still in force at that time?
- A2. Yes
- Q3. Was the directive in order considering the form of the Policy?



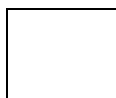
- A3. Legally yes, however it was considered by Media Officers at the time to be inappropriate, given that the Mayor and CEO were overseas at the time. Staff considered it would have been more appropriate to discuss the matter with the Mayor and CEO upon their return, which was to be within a week.
- Q4. Does the adoption or deletion of a policy require an absolute majority vote of full Council?
- A4. No

**Mr Laurie Humpreys - Public Question Time - Ordinary Council Meeting - 18 April 2000** - queried what the actual costs would be for the transfer of duties of linemarking, so investigation and design of local roads from Main Roads WA to Local Government.

The response dated 12th May 2000 informed that at this stage, it was not known as Main Roads did not provide the information on how much it is currently costing them. Council's Design Manager has advised that it will cost an additional \$50,000 for staff to do the work required.

**Mrs Carol Reeve-Fowkes - Public Question Time - Ordinary Council Meeting - 18th April 2000** - asked the following questions regarding Noxious Industries and proposed Town Planning Scheme No.3 which were answered in a letter of the 17th May 2000:-

- Q1. Where has all the noxious industry gone within this area as the map shows no noxious industry?
- A1. There is no land zoned for 'Noxious Industry' in proposed Town Planning Scheme No.3.
- Q2. What about all the industries in Cockburn that are currently classified as noxious industry?
- Q3. If they are now called something different will they also no longer be noxious?
- A2/3 A number of industries that may be categorised as 'Noxious Industries' under the current definition in Town Planning Scheme No.2 currently exist within the district. A number of these uses are located in the Jandakot area which is currently zoned 'Noxious Industry' in Scheme No.2. These industries will lawfully remain, due to the 'Non Conforming Use' provisions of Scheme 2 & 3. These provisions recognise the right of approved activities to remain, notwithstanding subsequent changes to zoning such as proposed by Scheme No.3 for the Jandakot area.
- Q4. How many other Councils have adopted the Model Scheme Text for Town Planning Scheme No.3?



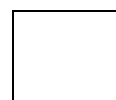


- A4. Cockburn is the first local authority in the State to have a Scheme approved for public advertising based on the Model Scheme Text.
- Q5. Which other Councils are adopting this section under Land Use definitions as General Industry Licensed, which specifically include cleaning establishments, laundries, metal finishing, boat building and maintenance, liquid waste treatment processing, waste storage, processing or treatment?
- Q6. Do other Councils specifically have these categories excluded from their noxious industry zones or is this specific to Cockburn?
- A5/6 No other local authority has to date adopted the 'General-Industry-Licensed' definition, although we have received inquiries from other local authorities. At this stage, it is specific to Cockburn. The 'McNeice' interpretation appears not to be widely recognised by other local authorities, with the notable exception of the Shire of Swan. It would seem possible however, that if they do not adopt a similar approach to that proposed by the City of Cockburn in Scheme 3, they run a risk of allowing 'Noxious Industries' to be classified as 'General Industries' under their respective town planning schemes.

**583. (AG Item ) (OCM1\_6\_2000) - PUBLIC QUESTION TIME**

**Laurie Humphreys** resident of City of Cockburn asked Commissioners whether the submission period for the ratepayers of the City was adequately long enough for the residents to have an input? The reason being, that the Act does allow a period of six weeks. The Cockburn Soundings only came out to residents last week which allowed approximately 2 weeks for the residents to have their say on the boundaries. Cmr Donaldson replied that the statutory period has been complied with. Mr. Humphreys reiterated that if this matter was not brought to the attention of the Commissioners now, this will be the last opportunity for ratepayers before a decision is made in July. He said most of the people would not be aware that the Cockburn Soundings is not true to the fact of the survey. He said 74% of those surveyed said that the current ward system is fair or good, with 11% of those surveyed said that it was very good or excellent. Cmr Donaldson requested Director, Community Services to respond on the percentage quoted in terms of ward boundaries. Director, Community Services replied that he did not have an answer and that this would have to be taken on notice and addressed in writing.

Cmr Donaldson made a point of reminding the public that the Ward Boundary changes had been advertised and out for public comment and copies are available at Council's reception and in the libraries. In his view he felt that there had been a lot of public consultation as a result of these being advertised.



**Lynn Wright** from Dotterel Way, Yangebup spoke in relation to a letter received from Council asking comments on the proposed Vodafone Phone Tower in Cocos Park, Bibra Lake. She presented a petition of around 330 signatures on behalf of residents of Yangebup in relation to the Phone Tower. She requested Commissioners to reject the proposed Vodafone telephone tower and base station, to be located at Lot 2, 8 Corokia Road, Bibra Lake. She said the proposal had the potential to seriously damage their health and the health of their children and will severely undermine their property values.

She asked that Commissioners to carefully consider all aspects of the proposal and to extend the proposed time line so that all questions and concerns will be addressed by Vodafone and their consultants before a decision is to be passed.

She mentioned that it is stated in Council Policy PD 32 that Council requires towers to be co-located with other towers where the opportunity exists. An interesting fact pointed out to their group was that it was not possible to co-locate with other providers because they would interfere with each other. They do not believe that this is an accurate statement by the proponent. It is obvious to all that the location of these facilities will be driven by the economic criteria of coverage of the largest area with the least cost to the provider but at what cost to the general public. With an increasing number of providers is there a tower to be erected every kilometre? With the current application before Council for a tower in Dobra Road in Yangebup and a forthcoming application before Council for another tower in Cocos Park, has the Council made any attempt to encourage mobile phone carriers to work together to co-locate their facilities? They believe that the opportunity exists now for Policy PD 32 to be upheld.

Cmr Donaldson requested Director, Planning and Development to respond as to whether the Council is encouraging the providers to co-locate. Director, Planning replied that the policy has been in place for some time and this is what Council officers try to pursue. The public should realise that the providers of the mobile network towers are basically outside the law and that is how they have been established by the Federal Government. Council is doing as best it can with other agencies and other local governments to ensure there is some dialogue and liaison between the providers and the local Council. He said it is really a procedural protocol rather than a procedural approval, as only high impact facilities require Council approval.

Cmr Jorgensen responded to the first question as to whether it could be deferred. His response was yes, it could be deferred depending on how the Commissioners voted on the matter. There would have to be a good reason for its deferral.

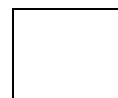


**Brian Vidovich** resident from Wattleup and also Chair of the Kwinana Air Buffer Zone is also responding to the FRIARS Strategy - Wattleup-Hope Valley Redevelopment Bill. He said that there are many things that need some clarification and therefore the Group is seeking its own legal opinion. He requested whether the Group was able to obtain a copy of the legal advice Council received from McLeod and Company in relation to this matter? Cmr Donaldson replied that Council has checked with Mr. McLeod with regard to this as he is the author of that letter. He had no objection nor has Council. It would be appropriate to contact the Chief Executive Officer's office to pursue the matter.

**Heather Smedley** of Rockingham Road, Munster asked the Commissioners why Cmr Smithson was nominated to the Cockburn Sound Management Committee. She asked the question because, and this has no reflection on Cmr Smithson's planning knowledge or personality, she felt that a long term representative would be a positive thing. She felt that the Commissioners did not offer the opportunity for a long term representative at this point in time and also did not fit into the category of being one of two things that are normally found on local government external committees. Local Government should either have a Councillor or Senior Executive Officer representing Council on these committees. Also, there have been a number of occasions where Cmr Smithson's planning consultancy business may mean, that the opportunity may be lost for a vote or for input by the Council where it is dealing with Cockburn Sound and the hinterland. Cmr Donaldson replied that there is a position for an elected member or a Councillor from the City of Cockburn to be on that Committee. When the Commissioners role ceases at the City of Cockburn an elected member will take that place on the Council. Cmr Donaldson also mentioned that Cmr Smithson was nominated because of her planning expertise. The potential trade-off between a possible conflict of interest in one or more areas which may or may not arise against the expertise that she would bring representing Cockburn, is such that, it is to Cockburn's advantage. Council believes that she would be adding value during that time she sits on that Committee.

Mrs. Smedley clarified the point whether it was an appointment only for a councillor not a senior officer. Cmr Donaldson said it could have been an officer and if a Commissioner is unable to attend then the senior officer would attend in his/her place.

Mrs. Smedley also asked a question on the Ward Boundary changes. She said she found it difficult to come to terms with the way the survey had been done. It was her understanding that the survey was done based on residential feedback. She asked if there was any feedback from commercial ratepayers and industrial ratepayers as well? Cmr Donaldson requested Director, Community Services to respond. He



said it was taken from the White Pages and not necessarily only residential. Cmr Donaldson said a random selection was made from the City area. She queried whether it would be appropriate that only the number of people who will be in a ward forms the best basis for deciding the ward arrangements, bearing in mind the commercial activities and the type of factors actually take more time of a councillor, than a strictly residential type area, where there is less likelihood of conflicts. Cmr Donaldson replied saying that it is a very complex issue, but essentially Council has to satisfy a number of criteria which is set for designing the composition of wards which includes numbers, so that no constituency is more advantaged or disadvantaged than others in terms of representation. Mrs Smedley asked whether she can get a copy of the survey? Director, Community Services responded that the document has been available for some time at the front counter.

**Colin Crook** of Spearwood spoke on Policies. He asked whether Council abides by the policies as set out in its Policy Manual? He felt that it did not, in particular those relating to graffiti, media and petitions. He questioned the procedure for petitions when it has been handed over the counter to be passed on to the Commissioners. Cmr Donaldson replied that in any situation where a Council is run by Elected Members or Commissioners there is a protocol for dealing with petitions and in the normal situation, they would be received, recorded and then forwarded to a Standing Committee or a group of Councillors under a special committee format or alternatively to a Director for action. He asked whether his petition of 12 June had been accepted by Council? The petition was in relation to Coogee Beach. Cmr Donaldson was advised that the Chief Executive Officer did receive a copy and either the Chief Executive Officer or the appropriate Director will make a decision on the matter, if it is under delegated authority or alternatively it would be presented to Council for determination. Cmr Donaldson also advised that the other forum for petitions to be presented was at Council Meeting where prior arrangements with the Chief Executive Officer's office would need to be made. This would then be listed on the Council Agenda under the appropriate heading. The petition is then received and recorded and a decision made as to what the next course of action would be.

Another question he asked was in relation to the Workshop Meeting held on Thursday on Coastal Planning organised by the City of Cockburn and Com-Net. He said that there was insufficient notice and advertising given regarding this workshop and asked how did this come about? He asked whether it was as a consequence of any of the motions from the Annual Electors Meeting? Director, Planning and Development responded that since the Integrated Coastal Management Plan had been presented to Council some months ago which made recommendations for the management of the coast there had been an appointment of a subsequent consultant who has been



carrying out a detailed investigation on parts of the coast which incorporates community involvement. He was not aware of the details of the program. Mr. Crook asked who the consultant was and whether he can be advised of the name. Director, Planning and Development responded that he did not know who it was but will take this on notice and respond in writing.

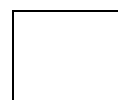
**John Cooper** of Coolbellup presented a petition in relation to the mobile telephone tower. He spoke on behalf of the signatories on the petition who strongly object to the mobile telephone equipment recently installed on the water tower belonging to the Water Corporation and situated off Visser Street, Coolbellup. On behalf of the signatories of the petition, he requested the Commissioners to refuse permission for the installation of the proposed Microwave Dishes on the same site. The petition stated that they also request that adequate notice be given to local residents of any future proposals for the installation of Mobile Telephone equipment in Coolbellup or its close proximity.

**Brenda Le Tang** of Barrington Street spoke in relation to Item 13.14. She requested clarification on Point (1) of the Special Conditions in the recommendation. Director, Planning and Development responded that it demonstrates the imposition of Council Policy PD 32, which encourages providers to install one post to put on a number of services so that there is no proliferation of towers. This cannot be enforced but is only a policy of Council. She also asked why were letters sent to owners within 400 metres of the tower. Director Planning and Development replied 400 metres is considered to be an adequate distance for inviting public submissions.

She requested Council that until research has been completed to take into consideration all the issues that have been put forward by all the concerned residents and ratepayers of Cockburn and overturn the decision to accept the proposal.

**Stephen Lee** ratepayer of the district and suspended Councillor requested to speak on a few matters.

Firstly Item 13.1 - Policy PD46 - Response to Appeals. He made reference to the policy attachment. He asked how could it be ascertained if a recommendation has been improved? Cmr Donaldson replied saying that it seems to take a wider range of issues, better phrased and has value added to it by a contribution of elected members. Director, Planning and Development stated that it also improves or minimises the ambiguity and the way in which the recommendation is constructed.



Comr Jorgensen mentioned that one has to bear in mind that it is only a policy and if there is any dispute, then the responsible officer, that being a Director or CEO, would have it referred to Council for clarification.

Comr Donaldson stated that this policy is mainly to satisfy divisions of interest or matters of disagreement between professional staff and elected members.

Mr. Lee also asked a question in relation to Point (4) of the Policy - He asked was there information contained in the files that is not public that the officer has used to make his/her decision? Comr Smithson responded that the Council file on the proposal would be available to the Councillor to view. Mr. Lee said that although the policy had been vastly improved he still feels that it should be deferred to include that the officer prepare the brief for the consultant incorporating the reasons that Council may have.

He also asked what is the budget allocation from where the funds are to be drawn from for the employment of the consultant? Comr Donaldson replied that it would be drawn from that particular budget area for example Engineering or Planning.

Item 13.5 - Fremantle-Rockingham Industrial Area Regional Strategy. He commended Council for the work it has done. He felt that Council should go a little further in consulting a QC to determine whether the data which the FRIARS issue has been based on, according to scientific study that this Council commissioned, has been flawed. He questioned whether Council had consulted with a QC or have had any reference to the legal advice obtained in relation to the flawed data? Comr Donaldson replied that Council has not consulted with anyone in reference to the above. As a ratepayer he requested that Council consult with a QC to find out if this is true. Comr Donaldson requested Director, Planning and Development to respond to Mr. Lee's question, to which he said that the WA Planning Commission has proceeded with the final plan for FRIARS. They have proposed this Bill which outlines the procedures for implementing the FRIARS proposals. Council has circulated copies of its submission to relevant Members of Parliament to make them aware of Council's misgivings about the report. In the Director of Planning's view, it was felt that it wouldn't be worthwhile getting a QC's opinion on the data at this stage. Mr. Lee felt he may have misled the Council in requesting a QC's opinion. What he actually meant was not the correctness of the data, but on the correctness of legislation being presented in Parliament with flawed data within that legislation. Director, Planning stated that he did not think that there was any data contained in the Bill. Mr Lee continued to emphasise and again asked the question whether it was correct legally for a Bill to go before Parliament which has been based on flawed data? Director, Planning said that the document is not law until such time that the Bill is proclaimed.



Item 13.14 - Proposed Mobile Phone Tower and Base Station - Mr Lee mentioned that the officer's report mentioned that the proponents were going to look at alternative sites within Barrington Street which would then be presented to Council. He asked where was an alternative site located? Cmr Donaldson replied that the alternative site did not give the same coverage as the proposed site which means that if the application was given approval, within a short period of time there would be an application for a supplementary site to cover the area. This was not an option. Mr. Lee requested Council not to issue an approval and asked if Council could meet the proponents and discuss moving the site to an alternative location.

Item 13.18 - Erection of "Welcome to the City of Cockburn' Signs on Rottneest Island and Carnac Island - Mr. Lee felt that the principle was great and asked whether Council was legally responsible for any accidents that may take place on the island? Cmr Donaldson replied that the City of Cockburn has no jurisdiction on either of the two islands. Mr Lee stated that himself and Mrs Separovich approached several officers sometime ago about the steel signs on the road verges, which in their opinion were very weak and need a lot of work done on them. He asked who would be taking the responsibility to improve these signs and make them look more presentable and professional? Director, Engineering and Works replied that the Manager, Parks had recently advised him that he had been negotiating with the Coolbellup redevelopment authorities and hopes that the intersection of Stock Road and Winterfold Road would be upgraded in conjunction with the Coolbellup upgrade. Another area to be looked at was the area to Murdoch Chase as well as Cockburn Road. These areas will be dealt with in the next three months.

Item 14.3 - Principal Activities Plan - Mr Lee referred to the Budget Review early this year in which there was an issue in relation to Sensory Park. There was a suggestion from one of the Commissioners that this should be included on the budget. He queried as to whether this should be included in the Principal Activities Plan as it is a major project. Cmr Donaldson replied that this matter would have to be taken on notice and responded to in writing.

Item 15.1 - Temporary Closure of Dollier Road - Mr. Lee spoke in relation to the City's Greening Plan. He felt that a point (11) should be included as part of the conditions to say completed works to be landscaped according to the satisfaction of Council's Parks Manager. He asked if this had been addressed? Cmr Jorgensen stated that this matter be taken on notice and that Director, Engineering and Works address this issue.



**Colin Crook** resident of Spearwood spoke in reference to Public Question Time of Ordinary Council Meeting of 16 May 2000 Pg.6 - Community Representation Survey of September 1999 - Ward/Voting Changes. The survey that he was referring to was the Customer Satisfaction Survey of November 1999 which only involved 150 phone respondents of which the results were not generally known. He said that the results of the Survey had been used to justify the increase in the Cockburn Soundings production, the prioritising of recycling over crime, and the inclusion of customer satisfaction ratings in the Principal Activities Plan.

Mr Crook also made reference to the Minutes of Special Council Meeting of 23 May 2000. He stated that the Commissioners did not find it necessary to include the community in their submission but did listen to the plight of the exonerated ex-councillors. He asked were the needs of the community covered in its final submission? He specifically asked that the community be included in any recommendation. Cmr Donaldson requested Mr. Crook to explain what he meant by saying that "the community is not mentioned in the recommendation". Mr Crook replied that the community had been mentioned in the recommendations from the Douglas Inquiry. Cmr Donaldson responded by saying that the community was never under investigation. Mr Crook said that it was his understanding the Inquiry into Council was to see that they were providing good government. Part of good government is to ensure that the community has input into Council decisions, to a point and is kept informed of what Council is doing. He stated that throughout the Douglas Report, it had mentioned that the community were not being informed of what was going on and therefore he felt that one of the recommendations should have included the community's concerns. Cmr Donaldson replied that he did not recall reading through the report that the Inquirer had continually mentioned that the community was not kept informed. The issue that Mr Crook has brought up has got a broader ambit in terms of community representation and community participation and consultation. These issues were not at the heart of the Douglas Inquiry.

Mr Crook also referred to Item 14.3 - Principal Activities Plan - He said the Annual Report was to inform ratepayers about the City's performance and should contain details of the decision making. He queried with only one meeting a month, it was possible that hasty decisions may be made (a) against public opinion or (b) unlawful. He asked how many other Council's of a similar size to this would have only one Council meeting a month? Cmr Donaldson replied that it is becoming the trend for Council meetings to be held monthly. He said the nature of local government and the way it operates is becoming more innovative and is certainly moving away from the traditional committee structure.





Mr Crook also stated that with only one Council meeting public input tends to be less on average. He expects when the elected Council is returned the length of public question time and the format will go back to its previous situation.

**584. (AG Item 8.1) (OCM1\_6\_2000) - ORDINARY COUNCIL MEETING - 16/5/2000**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that the Minutes of Ordinary Council Meeting held on 16 May 2000 be confirmed as a true and accurate record.

**CARRIED 3/0**

**585. (AG Item 8.2) (OCM1\_6\_2000) - SPECIAL MEETING OF COUNCIL - 23/5/00**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that the Minutes of Special Council Meeting held on 23 May 2000 be confirmed as a true and accurate record.

**CARRIED 3/0**

**586. (AG Item 12.1) (OCM1\_6\_2000) - REVIEW OF CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 1994 (1116) (LJCD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the proposed City of Cockburn (Local Government Act) Local Laws 2000, as attached to the Agenda; and
- (2) advertise the proposed local laws for public comment pursuant to section 3.12 of the Local Government Act 1995.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that:

- (1) receive the proposed City of Cockburn (Local Government Act) Local Laws 2000, as attached to the Agenda;
- (2) request officers to further analyse the adequacy of the provisions relating to the keeping of birds in general and the consumption or administering of drugs in a public area; and

- (3) advertise the proposed local laws for public comment pursuant to section 3.12 of the Local Government Act 1995.

**CARRIED 3/0**

### **Explanation**

Cmr Jorgensen felt that Division 6 of the Local Laws only mentioned Animals, Birds and Poultry, and under Poultry only referred to Ostriches, Emus and Roosters etc. but did not deal with or birds in general, other than with pigeons.

Another matter that was of concern was "Prohibited Areas and Activities" in the local laws. It only referred that it was against the law to consume intoxicating liquor and therefore he felt that the local law should also incorporate illegal drug use in such places.

### **Background**

Council, at its meeting held on the 21 March, 2000, decided to defer this item of business pending the receipt of advice from Council's Solicitors. Minor drafting changes have been implemented based upon the suggestions made by Council's Solicitors and the local laws have also been reviewed to satisfy the National Competition Policy requirements.

### **Submission**

The following statement is to be read aloud to the meeting:

The purpose and effect of these local laws is, within the district to:

- (a) provide for the regulation, control and management of the keeping of animals, bees, birds and poultry; reserves and beaches; buildings; dangerous and offensive things; traders; management and control of Council property; signs; streets and public places; traffic and vehicles; and activities causing damage to Council and other property;
- (b) establish where appropriate, standards and requirements in regard to the matters referred to in (a); and
- (c) provide for enforcement, where appropriate.

### **Report**

Council's Solicitors recommend some minor drafting changes and these changes have been integrated into the final draft, however, do not compromise the existing draft of the local laws.



The City of Cockburn (Local Government Act) Local Laws 2000 have been drafted in consultation with staff who have the responsibility for the administration of subsidiary legislation. One of the problems with the current Laws is that the Fines Enforcement Registry were experiencing difficulties in satisfying many of Council's complaints due to the fact that the offender's date of birth was not known, which made identification difficult in some cases. Infringement Notices have been designed whereby the date of birth of an alleged offender will be shown.

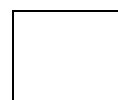
Notwithstanding the above, the City of Cockburn (Local Government Act) Local Laws 1994 are to be repealed following due process and replaced with the City of Cockburn (Local Government Act) Local Laws 2000. The intent in re-drafting the local laws, was to consolidate everything of a general nature into one set of local laws. For example, the local laws deal with such matters as dogs, dog kennels, livestock, pigeons, bee keeping, animals, birds, poultry, buildings and the management of Council property.

In the past, issues relating to pigeons and poultry were covered by the Health Local Laws. It is viewed that it is more appropriate to deal with such issues under the City of Cockburn Local Laws 2000, where offences can be controlled by modified penalties. Modified penalties are not available under the Health Local Laws.

Furthermore, the local laws also establish procedures for dealing with sand and/or dust drift, which has an impact on the environment and residents. In this regard, developers, contractors and builders may be required to submit a Dust Management Plan to Council for approval prior to work commencing. Builders or owner builders will also be required to have on site, a rubbish receptacle upon commencement of work and for the duration of the construction work. The receptacle will be a 4m<sup>3</sup> skip or a wire enclosure.

Authority has been provided for the issuing of Notices to deal with matters relating to nuisances, sand and/or dust drift removal of graffiti and rubbish adversely affecting neighbours. The traffic provisions have been restructured to provide for better management of issues. There are no schedules depicting the various application forms and licenses. Rather the phrase "on the form approved by Council from time to time" has been used throughout the local laws. This method eliminates the need of presenting new schedules to Council for approval and subsequent amendment to the local laws, every time a form is changed. The new procedure will be that amended forms relevant to the local laws, will be presented to Council for adoption and once adopted, the form becomes legal for use.

Fee schedules have been omitted from the local laws. Council will determine the fees applicable to the local laws in accordance with



section 6.16 of the Local Government Act 1995 and a schedule of fees will be published and adopted with the annual budget. This eliminates the need to amend the local laws every time there is an amendment to fees.

In the past, local government has had limited authority to issue infringement notices as such related mainly to traffic offences. By virtue of the enabling legislation, the City of Cockburn (Local Government Act) Local Laws 2000 has established modified penalties for offences against the local laws. Failure to pay an infringement notice within the prescribed time, means that the matter can be referred to the Fines Enforcement Registry for collection.

If Council resolves to proceed with this matter, an advertisement will be placed twice in The "West Australian" newspaper giving public notice of Council's intention to promulgate the City of Cockburn (Local Government Act) Local Laws 2000. Interested parties will be able to inspect a copy of the local laws or obtain a copy of the local laws from Council or from one of the other places mentioned in the advertisement and may make a representation to Council in response to the proposed local laws. The submission period for representations is 42 days from the date of the first advertisement.

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

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

Funds for the preparation of the Draft Local Laws and for checking by Council's Solicitors are accommodated within Council's Budget.

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

Nil

587. (AG Item 13.1) (OCM1\_6\_2000) - POLICY PD46 - RESPONSE TO APPEALS (9003) (SMH) (ATTACH)

#### **RECOMMENDATION**

That Council adopt Policy PD46 - "Response to Appeals" and include it in the Council's Policy Manual.



**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council adopt Policy PD46 - "Response to Appeals" and include it in the Council's Policy Manual subject to amendments being made in the above policy under the headings of "Background" and "Purpose" to read as follows:

(1) The word "responded" should be changed to "respond" in the Background and the removal of the words "or an investigation" from the Purpose; and

(2) Part 4 of the Policy to read:

"Council officers shall provide all necessary public information to the nominated member of Council, consultant or advocate to assist in the compilation of a response or a witness statement."

**CARRIED 3/0**

**Explanation**

Cmr Smithson felt that the term "investigation" should be removed as it needs to be clarified that Council is now dealing with appeals not enquiries.

On the other hand it is equally in the interest of elected Councillors as it is of Council officers that there is such a policy, because if there is a difference of opinion between professional officers and Council, Council should have the best independent advice it can to support its case.

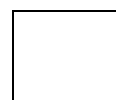
**Background**

At its meeting held on 21 March 2000, the Council resolved to defer consideration of the proposed Policy in order for it to be redrafted and refined.

A revised Policy was prepared accordingly.

At the Council meeting on 18 April 2000, it was decided to again defer the matter to the next meeting for the following reason:-

*"The Commissioners felt that the policy needs to be looked at more closely so that improvements could be made to the policy in the way it should be exercised as well as for it to be written in a more constructive way. Specific attention should be directed to defining "correcting/improving" and whether part of the Policy was necessary. Also, the Policy provided for potential conflict where an Officer was not the Chief Executive."*



It was also understood that there was a need to co-ordinate the proposed Policy with the recommendations contained in the Inquiry Report by Mr Neil Douglas, because one of the matters investigated related to responses to the Ombudsman.

The Inquiry Report has been received and that aspect of the Policy relating to responses to the Ombudsman, as originally proposed, has been deleted so that it now only relates to Appeals. Appeal procedures did not form part of the Inquiry.

Despite the fact that the "principle" contained in the Policy continues to apply to Appeals and Ombudsman's Inquiries, for the purpose of progressing the Policy, it has been limited to responses to Appeals.

There are situations that arise where the Council changes the recommendation of a Council officer which can lead to an appeal by the applicant.

In the past, the Council officers have been required to respond to the Minister or attend as an expert witness to a tribunal dealing with the matter, on behalf of the Council, when the Council decision is contrary to the recommendation of the officer.

This is a difficult situation and places the officer in an invidious position.

The decision making authority needs to be responsible and accountable for its actions where they are totally opposed to the recommendations of an officer.

The Local Government Act has been amended to include Regulation 11(d)(da), which now requires Council to document the reasons for making a recommendation different from that of an officer or a committee.

A policy is required to clarify the role and responsibility of the Council and its staff in respect to recommendations and decisions that are different.

### **Submission**

N/A

### **Report**

Attached is a Policy which has been prepared to provide for situations where a staff recommendation and a Council decision are different and an appeal follows.



The purpose of the Policy, is to put the onus for a Council decision which is contrary to a staff recommendation squarely with the Council so that:-

- (1) Council decisions which are the same or essentially the same as a staff recommendation, then the staff is obliged, unless the Council directs otherwise, to represent the Council in an appeal.

Provision needs to be made where a Council decision may, by being different from the staff recommendation, correct or improve on the recommendation in the interests of the Council, the applicant or both.

- (2) Council decisions which are totally different to a staff recommendation, then the Council should be required to represent its position and if necessary, Councillors act as an expert witness.

This approach would clarify the role, responsibility and accountability of the Council in this circumstance.

Although the situation does not arise often, a policy makes it clear should it occur in the future.

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

A new policy is proposed.

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

N/A

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

Nil

#### **588. (AG Item 13.2) (OCM1\_6\_2000) - WETLAND CONSERVATION POLICY - PD45 - ADOPTED (6120) (SMH/KSS) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the proposed "Wetland Conservation Policy" - PD45 and include it in its Policy Manual.



**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that:

- (1) the matter be deferred; and
- (2) officers review the policy in light of legitimate industry concerns in terms of duplicating assessments and the need for technical expertise, in particular to examine items 3.3 onwards from second bullet point and Item 3.2.

**CARRIED 3/0**

**Explanation**

There were concerns that the policy was asking for technical information to be provided to Council for it to make assessments such as pollution plans and drainage management plans and therefore Council believes that this is a resource impost on Council and that there are agencies who should be doing this in the interest of protecting the wetlands.

**Background**

Council at its meeting on 21 March 2000, resolved to adopt the proposed Wetland Conservation Policy for the purposes of advertising under Clause 11.1.1 of District Zoning Scheme No. 2.

The Policy was advertised on 8 April and 15 April and was also displayed on the Council's Website.

Advertising closed on 1 May 2000.

Prior to advertising, the Policy was sent to the Department of Environmental Protection, Ministry for Planning and the Water and Rivers Commission. Following receipt of their respective responses, the draft Policy was modified to ensure that it was not inconsistent with the requirements of the Agencies.

**Submission**

Six submissions were received during the public advertising period. Two additional submissions were received late. Council may have regard for the comments made before adopting the Policy.

A submission summary is attached.





**Report**

In response to the submissions, a submissions summary with brief comments has been attached.

It is recommended that the attached Policy be adopted.

**Strategic Plan/Policy Implications**

Key Result Area 3. "Conserving and Improving Your Environment" applies.

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

Also the Objective *"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**

The proposed Policy does not duplicate the role and responsibility of the DEP, MFP or WRC.

**589. (AG Item 13.3) (OCM1\_6\_2000) - OFFICE RE-ARRANGEMENT - PLANNING SERVICES DEPARTMENT AND TRAINING ROOM (9006) (SMH)**

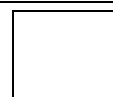
**RECOMMENDATION**

That Council:

- (1) support the proposal to relocate the training room from its current location upstairs to the northern portion of the staff amenities (lunch) room;
- (2) Municipal Budget for 1999/00 be amended as follows:

<u>Account No.</u>	<u>Description</u>	<u>Existing Budget</u> <u>Amount</u> \$	<u>New Budget</u> <u>Amount</u> \$
580876	General Provision for Disabled Access	59,912	58,412
117750	Admin. Building Security System	50,000	46,300
100015	Part Year Rating	275,232	290,402
NEW	Office Modifications	0	20,370

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



**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Since the resignation of Mr Darren Walsh, Environmental Manager in March, the Planning Services Department has been restructured so that Mr Allen Blood is the Manager of the Department.

This means that there is only a need for one office rather than 2 and that the unsatisfactory work station positions in the Department can be rationalised.

A series of rationalisation plans were prepared and discussed with the CEO, Directors, relevant Managers and staff. The preferred option is to relocate the training room downstairs to utilise the under-used space in the northern half of the staff (lunch) amenities room.

The current training room is not frequently used and occupies prime office space. It is not easily accessible after hours or by external groups.

Relocating the training room downstairs will mean that it will be adjacent to an external door for easy after hours use and will occupy a space currently used for the storage of disused/surplus office furniture and equipment.

The space is such that it can be used for a lecture room as well as an area set up for computer training.

The lunch room space and facilities remain for staff.

Relocating the training room downstairs means that the Planning Services Department can easily and conveniently re-arrange its work stations so that they meet acceptable standards.

Although initially, the space made available to Planning Services Department might be more than they require, the space will provide the scope for the future expansion of either Planning Services or Community Services without the need to protect the space for the training room.

The relocation of the training room downstairs should be a long term decision and therefore a worthwhile investment.



**Submission**

N/A

**Report**Air Conditioning - Proposed Training Room

The existing lunch room/amenities area has the two ceiling mounted air conditioning units that can be used separately for after hours use. As part of the works, it is proposed to reposition the unit that is in the amenities area so that it is within the proposed training room. The other unit would remain in the lunch room area. The cost to relocate the air conditioning unit is \$1,100. It is not possible to get a precise cost to make good the ceiling at this time, as it is dependent on how much can be recycled and how much damage the air conditioning contractor does. It is recommended that an allowance of \$1,500 be made.

Disabled Access - Northern Entry

Options for providing disabled access have been examined. A metal ramp off the existing landing is the best option. The ramp would be half the width of the pathway/landing leaving access to the stairs to the reception area unaltered. It was also pointed out that the existing disabled bays in the northern car park area, are inappropriately placed as the grades in the car park up to the entrance are too steep. The disabled bays should be located in the top part of the car park near the entrance. The two bays in that locality are currently designated for deliveries. Disabled access to the northern entry was picked up as an issue in the disabled audit.

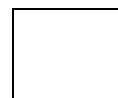
Funding of the ramp is available from a building account (disabled access). A budget price of \$1,500 has been provided.

Security - Downstairs Training Room

It is proposed to secure the proposed downstairs training room for after hours use. This will require the installation of a security facility on the hallway door near records. Wiring has already been provided to this point in anticipation of this requirement. The cost is \$3,700. There is approximately \$10,000 remaining in the security system account that will cover this cost.

**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."*

**Budget/Financial Implications**

Previous prices (March 2000) to make the necessary changes to the upstairs area by removing the partition between the training room and Planning Services and provision of a new wall in the lunch room/ amenities area to form the training room, ranged between \$8,170 and \$10,701.

The estimated overall cost to implement the proposal is as follows:-

Partitioning, painting, electrical, upstairs air conditioning	8,170
Air conditioning relocation (new training room)	1,100
Repairs to ceilings (amenities area)	1,500
Security	3,700
Disabled access	1,500
Work stations	<u>4,400</u>
	<u>\$20,370</u>

It is proposed that the modifications be funded by transfer of funds from existing accounts and surplus income above budget as set out in the recommendation.

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

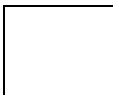
Nil

- 590. (AG Item 13.4) (OCM1\_6\_2000) - RECONSIDERATION OF DELEGATED REFUSAL - PROPOSED GARDEN CENTRE ANNEXE - LOT 63, 254 ROCKINGHAM ROAD, SPEARWOOD - OWNER: VOLLEY INVESTMENTS PTY LTD - APPLICANT: THE PLANNING GROUP (2206913) (CC) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) not reconsider (overturn) the delegated decision of 3 May 2000 to refuse the proposed Garden Centre (annexe) to Big 'W' Phoenix Park Shopping Centre, Lot 63, No. 254 Rockingham Road, Spearwood; and
- (2) advise the applicant accordingly.



**COUNCIL DECISION**

MOVED Cmr Donaldson SECONDED Cmr Jorgensen that the application be withdrawn and not be considered at this time, on the request of the applicant.

**CARRIED 3/0**

**Explanation**

Cmr Donaldson stated that advice had been received by way of a letter from the Planning Group that they wish to withdraw their development application for a Garden Centre (annexe) to Big 'W' Phoenix Park Shopping Centre.

**Background**

ZONING:	MRS:	Urban
	DZS:	Commercial
LAND USE:	Shopping Centre	
LOT SIZE:	75,484m <sup>2</sup>	
AREA:	293m <sup>2</sup>	
USE CLASS:	'P' Use	

The Council, at its November 1997 meeting, refused a proposed Garden Centre (annexe) on the eastern side of the Big 'W' Department Store at Phoenix Park Shopping Centre on the following grounds:

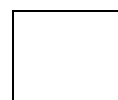
*"The proposed development would have a negative impact on the amenity of the adjoining residential area."*

The following considerations gave rise to the refusal:

- Nearby residents (8 signature petition) objecting that pesticides and manures would be stored, an existing Pollution Abatement Notice would be contravened and that an agreement between the shopping centre, Council and residents would be broken.
- The proposed development would be within 1.5 metres of the nearest property boundary increasing potential for noise and odour.

The Minister for Planning upheld an appeal citing the following considerations:

- The shopping centre's negative amenity is an established aspect of the locality's character.
- The garden centre would close the laneway eliminating an amenity issue over its use.



- Any negative impacts from the closer commercial activity can be controlled via planning conditions (see Agenda Attachments for Minister's decision).

As an aside but related issue, the loading dock also on the eastern boundary, has been subject to noise complaints and as mentioned, the issue of a Noise Abatement Notice (PAN) 1997.

### **Submission**

With the Minister for Planning's decision due to expire on 27 July 2000, the proponent has resubmitted identical plans for the Garden Centre (Annexe) which is to be constructed of link-mesh walls clad in shade-cloth and transparent roof sheeting (see Agenda Attachments for Plans).

As the planning matters that gave rise to the Council's original refusal remain the same, a delegated refusal of the proposal was issued on 3 May 2000 for the following reason:

*"The proposed development would have a negative impact on the amenity of the adjoining residential area by reason of increased potential for noise and odour affecting those areas."*

The applicant has requested Council to reconsider the delegated refusal on the grounds that the Commissioners may have a different view on the matter than the previous Council, and in light of the Minister for Planning's decision on the matter.

### **Report**

Since determination of the original proposal, the Garden Centre has been reclassified in the Scheme from an 'AA' use to a 'P' use in the Commercial Zone (via Amendment 154) and therefore, is not subject to the advertising requirement.

The Pollution Abatement Notice (PAN) issued on the 17 July 1997 remains in place as the approved acoustic barrier (May 1999), which sought to alleviate noise problems of the loading dock, has not yet been constructed. A Building Licence application was lodged in August 1999, but no Building Licence has been issued as no builder has been nominated. According to advice from the Shopping Centre delay in proceeding with works is due to gaining agreement through the Shopping Centre owner to the sharing of costs. This matter is still being pursued by Council staff.

As mentioned, it is considered that the planning matters that gave rise to the Council's original decision on the Garden Centre, have not changed. It is recommended that the Council not overturn the delegated decision of 3 May 2000.



**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

**Implications of Proposed Town Planning Scheme No. 3**

A 'Garden Centre' is to be classified as a 'D' use, which means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

**591. (AG Item 13.5) (OCM1\_6\_2000) - FREMANTLE-ROCKINGHAM INDUSTRIAL AREA REGIONAL STRATEGY (FRIARS) - FINAL REPORT 2000 (9332) (SMH)**

**RECOMMENDATION**

That Council:

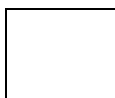
- (1) receive the report;
- (2) advise the Western Australian Planning Commission that it:-
  1. does not support the Preferred Land Use Strategy (Figure 5.1) of the Fremantle-Rockingham Industrial Area Regional Strategy published in April 2000;
  2. does not support the proposed Hope Valley-Wattleup Redevelopment Bill 2000;
  3. continues to support alternative Options 5 and 6 proposed in the Council's submission on Fremantle-Rockingham Industrial Area Regional Strategy in June 1999; namely:-
    - Option 5 - Kwinana - east of Patterson Road to the Kwinana Freeway and north of Thomas Road to the Rowley Road re-alignment, surrounding ALCOA's red-mud lakes to delineate a well defined and accessible industrial precinct in excess of 2000 hectares.

- Option 6 - Oldbury - north of Mundijong Road and midway between the Kwinana Freeway and the Tonkin Highway, approximately 14 kilometres east of the Kwinana Industrial Area (KIA). An unconstrained area of approximately 2000 hectares.
4. is firmly of the view that the proposed Agricultural and Rural Land Use Planning Policy be adopted as a Statement of Planning Policy (Section 5AA) prior to finalising the FRIARS proposal.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) receive the report;
- (2) advise the Western Australian Planning Commission that it:-
  1. does not support the Preferred Land Use Strategy (Figure 5.1) of the Fremantle-Rockingham Industrial Area Regional Strategy published in April 2000;
  2. does not support the Hope Valley-Wattleup Redevelopment Bill 2000, as proposed for reasons outlined in the report;
  3. continues to support alternative Options 5 and 6 proposed in the Council's submission on Fremantle-Rockingham Industrial Area Regional Strategy in June 1999; namely:-
    - Option 5 - Kwinana - east of Patterson Road to the Kwinana Freeway and north of Thomas Road to the Rowley Road re-alignment, surrounding ALCOA's red-mud lakes to delineate a well defined and accessible industrial precinct in excess of 2000 hectares.
    - Option 6 - Oldbury - north of Mundijong Road and midway between the Kwinana Freeway and the Tonkin Highway, approximately 14 kilometres east of the Kwinana Industrial Area (KIA). An unconstrained area of approximately 2000 hectares.
  4. is firmly of the view that the proposed Agricultural and Rural Land Use Planning Policy be adopted as a Statement of Planning Policy (Section 5AA) prior to finalising the FRIARS proposal.





(3) subject to an agreement with McLeod and Co, copies of the legal advice be provided to community groups.

**CARRIED 3/0**

### **Explanation**

It was felt that the Bill in its present form was unacceptable as it took away the planning and development powers from the City of Cockburn. If it was to be modified it could be acceptable.

With regard to the legal advice obtained by Council, it was appropriate to have some agreement with McLeod and Co, being the author of that legal advice to be given to community groups to enable them to voice their opposition on the matter.

### **Background**

The Council would be aware of the background to this issue.

The initial FRIARS proposals published by the WAPC was in March 1999. The report contained supporting background information and data together with 5 land use options.

The report was poorly prepared and did not adequately substantiate the approach adopted or justify the preferred strategy.

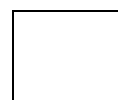
In response, the Council prepared a comprehensive submission which was lodged in June 1999.

As a result of this, Council staff attended the hearings in September 1999. Transcripts of the hearings were made available in a report however, no recommendations in respect to each of the presentations was made by the hearing panel. The hearings therefore, were of little effect and the outcome had no obvious consequence.

In fact, in the proposal of March 1999, the preferred Strategy contained 899 ha of General Industrial and 98 ha of Heavy Industrial compared to 798 ha of General Industrial and 98 ha of Heavy Industrial in the final report. This represents an overall industrial area reduction of 11%.

In April 2000, the Final Report on FRIARS was published showing the State's preferred land use strategy and at the same time, the Council was advised that the "Hope Valley-Wattleup Redevelopment Bill 2000" had been drafted as the means of implementing the Strategy.

Prior to the publication of the Final FRIARS report the State published a proposed Policy entitled "Agricultural and Rural Land Use Planning"



(SPP No. 11) in October 1999, some 5 months prior to the publication of the FRIARS Final Report.

In the Agricultural Policy Cockburn and Kwinana combined to produce the second-most important horticultural production area in the State. The policy seeks to protect these areas from erosion by incompatible uses, because productive agriculture land is a scarce resource. Despite the purpose of this policy and its applicability to the Wattleup and Hope Valley area, FRIARS proceeded.

Council at its meeting on 18 January 2000, resolved to recommend to the WAPC that it defer any decision of FRIARS until a decision had been made on the proposed Agricultural Policy.

Except for an acknowledgement, there has been no response to either the Council's submission on FRIARS or the Agricultural and Rural Land Use Policy. Section 2.5 of the Final FRIARS report acknowledges the existence of the Agricultural Policy and states that a detailed planning study needs to be undertaken to determine the extent of areas to be protected.

### **Submission**

#### 1. Final Report - April 2000

The final report is similar to the initial report. It lacks credibility and substance.

The Preferred Land Use Strategy (Figure 5.1) (April 2000), is essentially the same as the Preferred Land Use Strategy - Option 4 - Integrated Industrial Expansion (March 1999). The marginal changes are:-

- The exclusion of Bushplan Site 267 in Mandogalup (Town of Kwinana).
- The deletion of the linear strip of industrial land east of Cockburn Cement which means the area north of Russell Road remains rural. (City of Cockburn) No reason is given in the report as to why this has been deleted. The report suggests that this will act as an "additional" rural buffer between Thomsons Lake and Cockburn Cement. Although supported, the rationale to and benefit of this buffer is not understood.

The strategy proposes that the Land Use Plan be implemented and administered by the WA Land Authority (Landcorp).



The Council opposed this approach, and recommended that the WAPC be the development authority responsible for implementing the plan and Landcorp undertake the role of development agency, otherwise Landcorp wears two hats.

The plan proposes that the future industrial areas under FRIARS, within the City of Cockburn be developed for general and light industries.

The Wattleup Townsite is included in the future industrial area.

In respect to the role of local government in the implementation of FRIARS, the report states that *"... the LGA's remain fully informed throughout the life of the re-development project. This will require an integrated approach for planning and land use management between all levels of Government and the Implementing Agency."*

## 2. Hope Valley-Wattleup Redevelopment Bill 2000

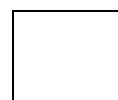
A Bill has been prepared to establish the Redevelopment Area and to remove the planning and development powers of both the City of Cockburn and the Town of Kwinana from it.

The Bill in general terms proposes to:-

- establish the WA Land Authority (Landcorp) as the responsible Authority for implementing the Master Plan;
- compulsorily take land;
- empower the Minister to amend local schemes in certain circumstances;
- close streets temporarily and permanently ;
- approve the Master Plan;
- cause the LGA's town planning scheme to cease having effect within the Redevelopment Area;
- all development approval to be considered and issued by the WAPC;
- prevent the Council from applying certain types of rates under Section 6.32(1) in the Redevelopment Area by reason of the land being in the RDA.

In essence the LGA's are only required to receive and pass on development applications to the WAPC for determination. There appears to be no formal recommendation role.

Of interest is the definition of 'Public Authority' which does not make specific reference to local government under Section 3(1). In addition under Section 11(2) copies of the approved Master Plan are only kept at the Authority's offices for public inspection, not at the Council.



A legal opinion has been received from McLeod & Co on the proposed Bill in relation to the compensation provisions.

Under the Bill, compensation will not be payable to landowners until an application for development approval is made, and is refused or has unacceptable conditions imposed on it because of a reservation, zoning or classification.

A person whose land is reserved, zoned or classified under the Master Plan will not be able to claim compensation for injurious affection.

The WAPC in dealing with an application is not bound to have regard for the amenity of the locality, and does not have to have regard for the provisions of the Master Plan.

Appeal rights under the Bill may apply to not only discretionary decisions of the WAPC but also factual and legal questions as well. In addition a decision of the WAPC to classify a use as either discretionary or non-discretionary could also give rise to an appeal. Previous decisions of the tribunal have determined that such discretion is not applicable under local schemes.

The Final Report will form the basis for preparing a detailed Master Plan for the Redevelopment Area.

For this to proceed the Bill must pass through Parliament, which is expected to be in this current sitting. Therefore the Bill could become law before 29 June 2000. If this occurs then Landcorp will commence the implementation of FRIARS on 1 July, according to advice from the Ministry for Planning.

The Redevelopment Area will become a "blank" patch on the MRS as the MRS and the local scheme will no longer apply. All planning and development decisions will be made by WAPC in accordance with the adopted Master Plan.

There will be no 'Redevelopment Authority' established and therefore no local government representation.

## **Report**

Based on assessments done by the Council's Strategic Planning Service, there is no justification from a land use planning or demand for industrial land to support the FRIARS proposal as contained in the Final Report.

Never-the-less, the Council made its position clear through its submission and by attending the public hearings.



Copies of the Council's submission on FRIARS, together with that made on the Agricultural and Rural Land Use Planning Policy (SPP No. 11) have been circulated to Upper House Members:-

- Hon M W Nevill MLC
- Hon Barbara M Scott MLC
- Hon J A Scott MLC
- Hon N Kelly MLC
- Hon J F Grill MLA

for their information and support for Council's position.

The Council should re-affirm its opposition to FRIARS, reconfirm its support for the Options it promoted, namely Option 5 (Hope Valley) and Option 6 (Oldbury).

Another unsatisfactory aspect of the Bill is that Landcorp is responsible for Administering and Implementing the FRIARS Master Plan, in the event that the Hope Valley-Wattleup Redevelopment Bill is proceeded with and that the Western Australian Planning Commission would be a more appropriate authority.

Except for the actions already taken by the Council and the Administration, there is very little more that the Council can do to oppose the FRIARS proposal.

Under the WA Land Authority Act land owned by Landcorp is not liable to pay rates to the Council. It pays a rate equivalent to State Treasury. State owned land is not rateable. A large amount of the Redevelopment Area could eventually be owned by Landcorp.

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

N/A

### **Budget/Financial Implications**

According to Section 35(2) of the Proposed Act the Council may continue to collect rates in the Redevelopment Area on the same basis as it does for the adjoining land.

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

There will be no duplication of services as the State will take control of all planning and development functions normally carried out by local government.

The Council will only act as a "post box" to forward development applications to the WAPC within 7 days of receipt and if the Council



wishes to it may make recommendations within 42 days on applications received in the Redevelopment Area.

Given that the Council will have no statutory position in relation to the Redevelopment Area it is not clear what benefit there would be in making recommendations to the WAPC.

**592. (AG Item 13.6) (OCM1\_6\_2000) - TOWN PLANNING REGULATIONS - ADVERTISING AMENDMENTS TO LOCAL SCHEMES - POLICY (9003) (SMH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the attached Policy PD49 "ADVERTISING TOWN PLANNING SCHEME AMENDMENTS" and include it in the Council's Policy Manual; and
- (3) provide a copy of the Council Policy to the Western Australian Planning Commission.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) receives the report and not adopt proposed Policy PD49 - "Advertising Town Planning Scheme Amendments"; and
- (2) maximise the use of the delegation offered by Planning Bulletin 29 to streamline the amendment process.

**CARRIED 3/0**

**Explanation**

Council was of the view that it should capitalise on the opportunity to advertise local amendments without referral to the WAPC/Minister in order to achieve any potential time savings for applicants.

**Background**

In December 1998, the WAPC published Planning Bulletin No. 29, "Town Planning Scheme Amendments - Consent to Advertise". This Bulletin explained the change to the Regulations to allow local



governments to advertise amendments without the approval and direction of the Commission / Minister for Planning.

To advertise an amendment the local government must comply with certain criteria, namely:-

- assessed by EPA under Section 47(c) of the EP Act
- consistent with the purpose of the scheme
- compliance with the Town Planning Regulations
- consistent with the MRS and regional policies
- consistent with 5AA policies.

However, at the end of 1999, the Shire of Chittering proceeded with an amendment to make its district a Nuclear Free Area under the amended Regulations which was assessed by the EPA. as acceptable. The Minister, however, did not agree with this and immediately sought to have the Regulations changed. Local governments were told not to continue with amendments under the Regulations. The change to the Regulations went to Parliament where it was disallowed and on the 25 May 2000, all Councils were advised that the amended Regulations continued to apply.

### **Submission**

The advice from the WAPC on 25 May 2000 was:-

*"This is to advise that on 3 May 2000 the Parliament of Western Australia disallowed the Town Planning Amendment Regulations (No. 2) 1999. Accordingly, the Regulations as appeared in the Government Gazette on 11 December 1998 and explained in the Commission's Planning Bulletin 29 (December 1998) now have effect.*

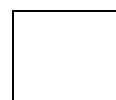
*In accordance with the Regulations now effective, local governments may advertise amendments to their town planning schemes without seeking the Commission's consent, subject to meeting the criteria set down in the Regulations and subject to the resolution of the Council to amend the town planning scheme being subsequent to 3 May 2000."*

### **Report**

Advertising of scheme amendments without the approval of the WAPC/ Minister is fraught with potential difficulties, that may not benefit the Council or the proponent.

The Shire of Chittering example is a case in point.

It is imperative from a town planning viewpoint that the amendment when advertised is acceptable to the "approving" authority.



The Council does not approve amendments it only makes recommendations.

It is likely that the concession by the WAPC for Councils to advertise scheme amendments without its approval has not been done to make Councils more autonomous or accountable but to relieve the Ministry of an administrative burden. Regardless of this, the Council is still required to undertake the same administration of a scheme amendment whether or not it is with the approval of the WAPC / Minister.

If the concession was to promote Council autonomy and accountability then the WAPC would have granted approval to advertise, to protect its interests and then allowed the local government to approve or refuse the amendment following the close of the public submission period. This is not the case, the Council remains only a recommending authority in relation to amendments to its "local" scheme.

The local government needs certainty that the amendment it is advertising will, at the close of the advertising period, be acceptable to the WAPC / Minister.

There is no point in advertising an amendment only to find when final approval is being sought, that the proposed amendment for some reason, is not acceptable.

This is already a potential problem with the referral of an amendment to the EPA before it is referred to the WAPC / Minister. The EPA can say 'yes' but the WAPC could say 'no'. It is better to get the 'no' from the WAPC before advertising, than to proceed with an amendment to have it aborted at the end of the process, as in the case of Chittering.

It is recommended that in the interests of the proponent, the public and the Council that amendments to Council's local scheme be referred to the WAPC / Minister for approval to advertise, so that the position of the WAPC / Minister is known prior to seeking public comment. This is the most efficient approach.

A policy, therefore needs to be adopted by the Council so that a consistent approach can be applied to amendments to the local scheme and to enable the public to be aware of the Council's position.

Currently the Council has had 222 proposed amendments to Town Planning Scheme No. 2, which represents an average of 28 amendments per year since 1992.

Scheme amendments, although important, are not a major part of the work of Statutory Planning Services.





Therefore referral to the WAPC prior to proceeding with an amendment would not cause inconvenience or inefficiency for the Council. But would provide certainty and confidence about the acceptability of a proposed amendment by the WAPC / Minister.

Another problem is under Regulation 25 (2)(iv), where the potential exists at the end of the process for the MFP not to agree with the definition of the "area of the subject amendment" for consultation purposes and may require the amendment to be re-advertised. Therefore it is in the interests of the proponent that "the area" be defined by the WAPC / Minister at the outset so that there can be no conjecture.

It should be noted, that, where a Council does proceed with an amendment, the Ministry for Planning officers have advised that they are not to be treated as a referral agency for comment as part of the advertising process because they represent the approving agency. This means that even during a Council advertising an amendment it cannot take into account the likely position of the WAPC. Moreover, the stance taken by the MFP confirms that it does not want to make any commitment to an amendment prior to making a recommendation to the WAPC at the end of the process.

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

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

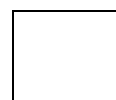
1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*

### **Budget/Financial Implications**

N/A

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

By the Council not advertising amendments in accordance with the discretionary scope provided under Regulation 25 (2), the Council is not duplicating a role that the WAPC/Minister currently has.



To seek the approval of the WAPC/Minister to advertise a proposed amendment, reduces the potential for modifications, delays and refusal at the end of the process, thereby giving greater certainty to the public, the proponent and the Council at the beginning of the process, that if supported it can be approved.

**DECLARATION OF FINANCIAL INTEREST**

Com Donaldson advised the meeting that he had a financial interest from Comr Smithson on the following items.

Item 13.7 - Amendment No.192 - Development Areas and Structure Plans - Final adoption. The nature of the interest being that her employer, BSD Consultants, has made submissions on behalf of some owners.

Item 13.8 - Amendment No.193 - Development Contribution Areas - Final Adoption. The nature of the interest being that her employer, BSD Consultants has made submissions on behalf of some owners.

**AT THIS POINT CMR SMITHSON LEFT THE MEETING THE TIME BEING 9.02 PM**

593. (AG Item 13.7) (OCM1\_6\_2000) - AMENDMENT NO. 192 - DEVELOPMENT AREAS AND STRUCTURE PLANS - FINAL ADOPTION (92192) (SOS) (ALL) (ATTACH)

**RECOMMENDATION**

That Council:

- (1) adopt the Schedule of Submissions as contained in the Agenda Attachments.
- (2) adopt the Amendment for final approval, with the following modifications:

	Clause	Recommended Modification
1	Ninth Schedule – DA 6.	Delete the generic statement in DA 6 and replace it with the following provisions as proposed by Amendment 177;  1. Objectives  In considering an application for Planning Consent in the Marine Technology Park Zone the Council, in addition to any other matter it is required or



permitted to consider, shall have regard to the following objectives:-

- (a) the promotion of the purposes and functions of the Technology Development Act 1983 (as amended);
- (b) the encouragement of research and development;
- (c) the encouragement of pleasant and efficient facilities;
- (d) the consideration and improvement of appropriately located development within the zone;
- (e) the safe movement of vehicular and pedestrian traffic; and
- (f) the protection of the amenity of areas adjacent to the zone.

## 2. Permitted Uses

The following uses shall be directly related to or incidental to ship design, ship building, ship repair and marine engineering: -

- (a) research and development (P);
- (b) product or process development and improvement (P);
- (c) supply of technology based products and services (AA);
- (d) provision of specialist services to increase the capability of companies in technology industries (AA);
- (e) education and training (P);
- (f) light and service industry (AA);
- (g) office administration (P);
- (h) support services, including but not limited to, child care centre, lunch bar, and restaurant (AA);



(i) other activities/ uses which the Council is satisfied are directly linked and associated to marine related industries (AA); and

(j) a use that is not mentioned in Clause 8.15.2 (a) to (i) inclusive shall not be permitted (X) within the Marine Technology Park Zone.

3. Land use and development within the Marine Technology Park Zone is to be in accordance with the adopted Structure Plan.

4. The Council may approve or permit any change or departure from the approved Structure Plan which in the opinion of the Council:-

(a) is minor in that it does not substantially affect the purpose or intent of the Structure Plan;

(b) has minimal impact upon any person other than the Proponent; and

(c) does not affect the interest of any authority or body providing or likely to provide services within the Area of the Structure Plan;

but any other proposed change or departure shall be required to undergo the procedures contained in Clause 6.2 before the Council considers whether to approve or permit it.

#### 5. Development Standards

The following provisions apply to all Land included in the Marine Technology Park Zone in addition to any provisions which are more specifically applicable to that Land under the Scheme:-

##### (a) Building Setbacks

(i) A person shall not erect or cause or permit to be erected any Building or any portion of a Building in the Marine Technology Park Zone nearer to a street alignment than the minimum Building Setback distance;

(ii) Where a lot has frontage to Russell Road, Coogee Road, Rockingham Road or Frobisher Avenue the minimum building



setback shall be 20 metres. Buildings to other streets shall be setback a minimum of 10 metres from the street frontage;

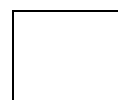
- (iii) Side and rear boundary setbacks shall be a minimum of 5 metres.

(b) Landscaping

- (i) A minimum of 25% of each lot shall be set aside as landscaped open space;
- (ii) Lots with a boundary to Russell Road, Coogee Road, Rockingham Road or Frobisher Avenue shall set aside a 10 metre wide landscape strip along the road frontage and this area shall be landscaped and maintained to the satisfaction of the Council;
- (iii) A minimum 3 metre wide landscape strip shall be provided along the side and rear boundaries of all lots;
- (iv) A landscape plan detailing the mix of hard and soft surfaces shall accompany any application for planning consent. Landscaping shall be provided in accordance with the approved plan and maintained to the satisfaction of the Council.

(c) Car Parking and Servicing Facilities

- (i) Car parking shall be provided in accordance with the Fourth Schedule - Car Parking Requirements;
- (ii) Car parking and servicing areas shall be screened from the street and either located behind the building or the 3 metre wide landscape strip;
- (iii) Where car parking and servicing facilities are proposed between the building and street alignment, they shall be designed in such a way as to complement the building and be screened from the street.



		<p>(d) Building Design</p> <p>(i) Buildings shall exhibit a high degree of architectural integrity and design, and shall reflect the nature of the Marine Technology Park;</p> <p>(ii) A schedule of external finishes; materials and colours are to accompany any application for Planning Consent.</p> <p>(e) Signage</p> <p>(i) 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;</p> <p>(ii) Signage is to complement the architectural proportion and scale of the building. Roof signs will not be permitted.</p>
2	8.2	<p>Delete subclauses a) and b) and replace with the following:</p> <p>a) to identify areas which require the future pattern of land use, subdivision and development to be shown on a structure plan before the subdivision or development of land can commence;</p> <p>b) to set out the procedures for the preparation, adoption and operation of structure plans.</p>
3	8.4 b)	Delete the words "and implemented" .
4	8.5 o)	Delete the word "and" from subclause (ii), insert a new subclause (iii) with the words "all landowners affected by the structure plan; and" and renumber the following subclause accordingly.
5	8.5 p)	Delete subclause 8.5 (p) and replace with the words "A copy of each approved structure plan, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government."
6	8.7	All occurrences of the words "detailed area plan" in lower case to be modified to "Detailed Area Plan".
7	8.8	Insert a new subclause (e) "Where there is an inconsistency between the provisions of the Scheme and the provisions of a Structure Plan, the provisions of the Scheme shall prevail."



- (3) advise those persons who made a submission of Council's decision.
- (4) in anticipation of the Hon Minister's advice that final approval will be granted, the modified Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.
- (5) The Commission be advised that in regard to modification 1, the Ninth Schedule of Amendment 192 has been modified to include the land use provisions that are proposed by Amendment 177, but not to the extent that the zoning of the land is changed. If Amendment 192 is to be finalised prior to the finalisation of Amendment 177, Amendment 177 will require minor modification in the context of Amendment 192 to ensure consistency.

#### **COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that the recommendation be adopted.

**CARRIED 2/0**

#### **Background**

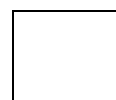
In September 1998, Council initiated Amendment 192 to District Zoning Scheme No.2.

Amendment 192 proposes the following;

1. A set of provisions detailing the processes and requirements relevant to the preparation and consideration of structure plan proposals;
2. The introduction of a new zone to the Scheme – the "Development" zone; and
3. The identification of 15 individual Development Areas;

The Ministry for Planning as a reaction to Amendment 192 and similar proposals by other metropolitan Councils, formed a Working Group whose role was to devise a set of model scheme provisions for structure planning.

Amendment 192 remained with the Ministry for a considerable period whilst the Working Group progressed the drafting of the model



provisions. In August 1999, Council was directed by the Western Australian Planning Commission to modify the Amendment in line with the Draft Provisions (as reported to Council - OCM 12/10/99, Item 13.2). Another modification was directed after the Draft Provisions were altered in January 2000 (OCM 18/1/00, Item 13.9).

On 9 February 2000, the Commission granted its consent for Amendment 192 to be advertised for public comment. The advertising period coincided with the formal release for comment of the Draft Provisions in the Commission's Planning Bulletin Number 37. It also coincided with the advertising of Amendment 193, which concerns provisions for the cost sharing and developer contribution arrangements. A separate report on Amendment 193 forms part of this Agenda.

Following the conclusion of the public consultation period, Council, at its meeting held on 18 April 2000, resolved to request the Minister for Planning grant a 90-day extension to the usual time afforded under the Town Planning Regulations to consider the submissions. At the time of writing this report, no formal response had been received in regard to the extension request.

### **Submission**

All landowners within the 15 proposed Development Areas were notified of the proposal and provided with the opportunity to comment. A large number of enquiries were made with the Planning Department during the public consultation period. A total of 22 written submissions were received. Details of the submissions and the recommended responses are included in the Schedule of Submissions (see Agenda Attachments).

### **Report**

Of the 23 submissions received on Amendment 192;

- 3 submissions are in objection;
- 2 submission is of no objection;
- 2 submissions question specific effects of the proposal;
- 3 submissions provide extensive comment on the proposed text;
- 6 submissions provide general comments in relation to specific Development Areas; and
- 7 submissions fail to provide any comment relevant to the proposal;

Apart from the three submissions of objection, it is not necessary to comment on the detailed content of the other submissions in this report except to note that there are no major objections to Amendment 192. Some submissions have made constructive recommendations regarding specific aspects of the proposal. Where appropriate, modifications to the





Amendment text have been recommended. A table at the conclusion of this report lists the recommended modifications.

The three submissions of objection, whilst making several valid points, appears to have misinterpreted what is actually proposed. The remainder of this report deals with their main issues of concern.

Structure planning is not a new concept. It has been used for many years as an essential device to set out the desirable pattern of development at the initial planning stages. It has, however, lacked a clear set of statutory parameters outlining the processes involved. The remaining areas with development potential in Cockburn tend to be fragmented into small landholdings and are subject to varying environmental and development constraints. The role of the structure plan is critical to the comprehensive planning of these areas. Moves to standardise and streamline the structure planning process are widely supported by local authorities, the Ministry for Planning and the development industry.

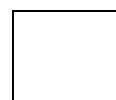
Minter Ellison on behalf of Watson Foods, Landcorp and Cockburn Cement prepared the three submissions of objection. The submission on behalf of Watson Foods is the most extensive of the submissions. The two other submissions duplicate comments made in the Watson Foods submission, minus comments that were specific to Watsons Foods.

The submissions' major contention is that Amendment 192 is unsound as it;

- fails to recognise the buffer around the Watson Food's Spearwood premises in its current form;
- fails to make direct provision for the buffer to be reflected in a zone nor within the detailed provisions contained within the Ninth Schedule;
- makes it possible for the buffer to be amended other than by a rezoning;
- is premature and unnecessary, given that similar provisions are contained in the proposed Cockburn Town Planning Scheme No.3; and
- is not apparent if the City took into account advice from the Department of Environmental Protection when resolving to amend TPS 2 and advertise Amendment 192.

#### *Perceived invalidity of Amendment 192*

This claim has been made in relation to the referral of Amendment 192 to the Environmental Protection Authority (EPA) and perceived failure of the City to take into account the EPA's comments. The Amendment was referred to the EPA on 13 October 1998. On 17 November 1998, the City received correspondence from the Department of Environmental



Protection (DEP) dated 10 November 1998 requesting further information on the proposal and advising that until such time as the information was received, the EPA would deem the proposal as “unreferred”. As the DEP/EPA response was received after the conclusion of the 28 day period it has to respond to Amendment proposals, the Amendment was forwarded to the Commission with a request for consent to advertise be granted.

On 19 April 2000, the DEP advised that it was seeking legal advice on issues raised by Minter Ellison in relation to Amendment 192, particularly the procedural requirements concerning environmental assessment. There is considered to be nothing invalid with manner in which Amendment 192 has been dealt with. Section 7A1 does not provide for the EPA to request additional information and in any event the request was not received until one week after the conclusion of the 28 day period. The decision to forward the Amendment to the Commission was justified and in accordance with the legislative requirements. The DEP have not provided any advice further to their April letter which suggests otherwise.

*EPA assessment of structure plans*

Much of the Minter Ellison submissions are based on concerns with the absence of the EPA from the structure planning process. It argues that as a structure plan has the same effect as a Scheme Amendment and that there is no requirement for the plan to be referred to the EPA, the process is flawed as the environmental review that usually occurs with Amendment proposals will not occur.

The submission fails to note that land intended for development must firstly be rezoned to the Development zone or an acceptable equivalent prior to the adoption of any structure plan. Whilst a generic zoning does not indicate the intended development pattern, it will provide the opportunity for the EPA, through the Amendment referral process, to identify any areas of concern for the subsequent structure plan to take account of. Furthermore, the option of a traditional detailed zoning is not precluded by Amendment 192 and in such a case the structure plan may only need to illustrate the proposed development pattern.

It is also worth noting that when a structure plan is received, the local government can refer it for comment to any agency that it thinks fit. The EPA would be consulted as a matter of course and has call-in powers to formally assess proposals. The amendment process, in addition to the advertising requirements applicable to a proposed structure plan, provides ample opportunity for environmental review and for affected owners to comment.



*Status of structure plan in context of Scheme*

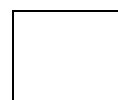
Whilst the provisions of a structure plan adopted under the provisions of Amendment 192 will apply to land as if its provisions were incorporated into the Scheme, the Amendment does not seek to give a structure plan approved through the process the equivalent status to a Scheme Amendment by actually adjusting zoning and reservation boundaries. The requirement to prepare a structure plan does not in itself constitute an amendment to the scheme but merely an interim planning device to ensure that the subdivision and development is coordinated and managed within an overall framework. The advantage of this is the certainty the plan provides and also the flexibility to make modifications in a timely fashion as planning proceeds. The intention is that a structure plan will make reference to reserves, zones or the Residential Planning Codes in respect of land where those references might not be indicated in the Scheme and to the extent that the plan adopts those references, the general Scheme provisions will regulate development as if the plan was part of the Scheme. This is essential in order for the appropriate scheme requirements to apply in considering applications for development.

The only conflict that may arise is where a structure plan might, through the Amendment provisions, permit a use which would not otherwise be permissible under the Scheme zoning. This could be overcome by including a provision in the Amendment to the effect that where there is any conflict between the provisions of a structure plan and the provisions of the Scheme, the provisions of the Scheme shall prevail.

*Role of WAPC versus the Minister for Planning*

Further to the previous point in regard to the effect of the structure plan in substitution for a Scheme Amendment, Minter Ellison is concerned that the Minister for Planning is not involved in the adoption of a structure plan in the same way as a Scheme Amendment. Like subdivision, the responsibility for determination of a proposed structure plan is that of the Commission. In the same way as subdivision, there are appeal rights to the Minister for Planning and the Appeals Tribunal on any discretionary decision in regard to a structure plan. It should be noted that structure plans are a guide to subdivision and whilst the structure plan does not fetter the Commission's discretion on subdivision, it is a relevant consideration.

Having the Commission involved in the structure planning process will ensure plans are given authority in that they are approved by the Commission and can be applied in the decision-making process, as part of the consideration of the merits of the subdivision. Also the Commission, from a planning point of view has a regional focus with respect to development and ensures the plan is consistent with the terms of the MRS and any regional strategy. In carrying out this role the



Commission does not usurp the role of the Minister or the Appeals Tribunal. Instead it will result in a streamlined process where the Commission can arbitrate on any dispute between Council and a Proponent and consider the views of affected parties prior to formal appeal. This process is considered to adequately address the concerns of Minter Ellison have in relation to having regard to regional considerations, applicable State policies and relevant strategies when considering a proposed structure plan.

*Watsons buffer area*

Comments made by Minter Ellison in regard to the Watson's buffer seem to misinterpret the role of the structure plan. The Watsons site and its surrounds are proposed for inclusion within DA1, however the zoning of the land is unchanged by the Amendment. The boundary of DA1 corresponds directly with the current boundary of the Packham Urban Development Area. The main implication of including land within a Development Area is that a structure plan is required as a prerequisite to an application for subdivision or change in land use. As noted above, a Scheme amendment is still required to rezone land, be it a generic zoning or something more indicative of the final land use as a precursor to structure planning, and thus provides for EPA review and Ministerial approval. The need for separation distances between incompatible uses remains an important consideration of any structure plan.

*Appeal rights*

The final concern of Minter Ellison requiring comment relates to appeal rights. The Amendment provides for appeal rights for aggrieved applicants in accordance with Part V of the Town Planning and Development Act. The submissions' advocate that affected landowners, whether it is Council or a Proponent who prepares a structure plan, should have a right to appeal any decision in regard to a plan. This is clearly at odds with the fundamental provisions of planning legislation in relation to appeal rights. Such a comment is more appropriately considered as part of the proposed consolidation of the planning legislation and not a local Scheme amendment. The suggested approach would make the process unworkable and cause lengthy delays. Landowners in this situation are able to express their views through the advertising of the structure plan. Further protection is afforded by Council and the Commission being required to consider a summary of all submissions received when considering the structure plan. It would be inappropriate for the structure plan itself to become an Amendment to the Scheme and be subject to the provisions of the Town Planning Regulations regarding consultation and approval by the Minister for Planning. It would create serious delays and costs by reducing certainty, increasing complexity and requiring multiple Amendments particularly in areas of fragmented ownership.



*Concluding remarks*

It is appropriate to progress Amendment 192. Final adoption is recommended, subject to the following modifications.

	Clause Reference	Recommended Modification
1	Ninth Schedule – DA 6.	Modification of Marine Technology Park DA 6 in accordance with proposed provisions of Amendment 177 – as per response to submission 1.
2	8.2 – Purpose	More accurately define the purpose of Part 8 as per submission 16 – point 2.
3	8.4 b)	Remove the term "implemented" from clause in as per submission 16 –point 6.
4	8.5 o) – notice of approval of plan.	New subclause 8.5 (o)(iv) – all landowners affected by the structure plan; (to receive notice when structure plan is approved and copy of the plan).
5	8.5 p) – copy of approved plan to be made available.	Amend subclause 8.5 (p) – a copy of each approved structure plan, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.
6	8.7 – Detailed Area Plans	Various minor changes to clause to make lower/upper case consistent for the term "Detailed Area Plan".
7	8.8 – Operation of structure plan.	New subclause 8.8 (e) – where there is an inconsistency between the provisions of the Scheme and the provisions of a structure plan, the provisions of the Scheme prevail.

**Strategic Plan/Policy Implications**

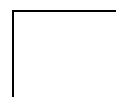
Nil.

**Budget/Financial Implications**

N/A

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

Nil



**594. (AG Item 13.8) (OCM1\_6\_2000) - AMENDMENT NO. 193 - DEVELOPMENT CONTRIBUTION AREAS - FINAL ADOPTION (92193) (SOS) (ALL) (ATTACH)**

<b>RECOMMENDATION</b>		
That Council:		
(1) adopt the Schedule of Submissions as contained in the Agenda Attachments.		
(2) adopt the Amendment for final approval, with the following modifications:		
	Clause	Recommended Modification
1	12.4 (b)(ii)	Insert the phrase “, with the approval of the Minister for Planning,” after the word “may”.
2	12.4 (c)(v)	Insert the phrase “in accordance with an approved Structure Plan” after the word “land”.
3	12.4 (e)(ii)	Insert the phrase “, at their own cost,” after the word “Owner”.
4	12.6 (b)(iii)	Replace the word “may“ with the word “shall”.
5	12.7	Insert a new clause – “(d) The local government is to only expend funds collected in the Development Contribution Area to which the Development Contribution Plan relates”.
6	12.9 (a)	Replace the phrase “State President of the Western Australian Division of the Australian Property Institute for the time being” with “President for the time being of the Western Australian Division of the Australian Property Institute”.
7	12.10 (a)	Delete the words “Town Planning”.
8	12.10 (a) / 12.11 (b)	Correct the clause numbering/lettering by deleting the letter “(a)”
(3) advise those persons who made a submission of Council’s decision.		
(4) in anticipation of the Hon Minister’s advice that final approval will be granted, the modified Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.		



**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that the recommendation be adopted.

**CARRIED 2/0**

**Background**

In September 1998, Council initiated Amendment 193 to District Zoning Scheme No.2. The Amendment proposes the mechanism for the imposition of infrastructure cost contributions from owners of land within defined development contribution areas.

Amendment 193 was initiated at a time when other metropolitan local authorities were introducing Scheme provisions involving the introduction of cost sharing procedures to apply to areas of new subdivision and development. The Western Australian Planning Commission was concerned that there was a varying set of provisions within each of the Amendments and it sought to ensure that developer contribution arrangements would only be applied to infrastructure that is reasonably required as a result of the subdivision and development of the land. A Working Group was formed to devise a set of model text provisions for development contributions. Like Amendment 192 (Structure Plans and Development Areas), Amendment 193 was delayed pending the drafting of model provisions.

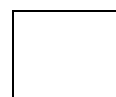
Following several modifications to Amendment 193 in line with the working draft of the model provisions (as reported to Council – OCM 12/10/99 Item 13.3 and OCM 18/1/00 Item 13.8), the Commission granted consent for the Amendment to be advertised in February 2000.

The draft model provisions have yet to be formally released by the Commission for public comment. As a result, the advertising of Amendment 193 effectively presented the development industry with one of the first opportunities to appraise the draft model text provisions.

The Amendment has attracted a rigorous review, with 29 submissions being lodged. Council at its meeting held on 18 April 2000 resolved to request the Minister for Planning grant a 90-day extension to the usual time afforded to consider the submissions.

**Submission**

To assist in the consideration of submissions on Amendment 193, it is necessary to provide a summary of the proposal.



The Amendment proposes the procedural requirements that are to apply to the preparation of a Development Contribution Plan (DCP) and the method of collection and administration of infrastructure cost contributions.

A DCP will apply specifically to land included in a defined Development Contribution Area (DCA) and will prescribe landowners' obligations for contributions. A DCA is to be identified on the Scheme Map and may correspond with the boundary of a Development Area or zone. A DCP will not have effect until it is incorporated by reference in the Tenth Schedule of the Scheme.

Whilst Amendment 193 proposes generic development contribution procedures, it does not introduce any area-specific contribution requirements to the Tenth Schedule, nor does it identify any DCA on the Scheme Map. These detailed provisions will be incorporated into the Scheme by subsequent Amendment proposals. There are four current Amendments in Cockburn proposing specific development contribution requirements, which are awaiting the progression of the "parent" provisions of Amendment 193. These include Amendments 197, 206, 207 and 210.

The key effects of Amendment 193 are as follows:

- Subdivision or development will generally not be supported or approved in a DCA until the owner has made arrangements for payment of the cost contribution under the DCP. Where a DCP is not yet in effect, an owner may make other arrangements with Council;
- The DCP is to outline the cost contributions to infrastructure that are fairly and reasonably required as a result of subdivision and development of land in the DCA. The Commission's Planning Bulletin 18 provides guidance in terms of infrastructure items that are reasonable for contribution requirements to apply;
- An owner's contribution is to be based on the proportion that the area or value of their land bears to the total area or value of land within the DCA;
- The cost of the infrastructure is to be based on amounts expended, or upon the latest and best cost estimates;
- An owner's payment of their contribution can be through money, land or some other method such as completion of works;
- An owner's liability for their contribution arises upon the earliest event of subdivision, development, change of or extension of use or the expiry of the DCP.
- Council will have the ability to lodge caveats on land where a contribution is outstanding and enter into agreements with landowners for contribution payments or to fund shortfalls;
- Processes involved in land valuation, financial administration and dispute resolution are formalised.





## Report

The public consultation period for Amendment 193 concluded on 24 March 2000. The Commission required that details of Amendment 193 be circulated to the same landowners that were consulted on Amendment 192. A large number of inquiries were made with the Planning Department during the consultation period and a total of 29 written submissions were received.

Whilst a number of submissions object to the general principle of development contribution arrangements, the majority of submissions have indicated acceptance of the proposal and have focussed on providing extensive comment on the operative provisions of the Amendment. The Schedule of Submissions and a summary of the issues raised are included in the Agenda Attachments.

Given the level of detail provided in the Schedule of Submissions, it is not intended to further discuss the issues raised in submissions in this report. Several recommended modifications have resulted from the submissions and are detailed below.

The principle of developer contributions is not new, however the method of application has in the past been somewhat unstructured. Conditions on subdivision and development approvals requiring infrastructure contributions are often met with strong resistance from affected landowners and are contested through appeals, particularly when the requirement appears to have been imposed without statutory backing or a clear method of implementation.

The proposed process has merit for a number of reasons. A significant advantage is that contribution arrangements will have the backing of the Town Planning Scheme. This provides for public input when a DCP is proposed and once adopted, offers certainty for owners regarding their obligations when developing. When in effect, a DCP gives validity and weight to approval conditions relating to contribution requirements. Furthermore, the process is transparent, accountable and subject to ongoing review.

The main benefit of the Amendment process is the equitable approach it provides for infrastructure funding in areas of new development. This is firstly in terms of a fair system of shared contribution amongst those developing, particularly where land is fragmented into multiple ownership. But perhaps of more significance is the principle that those who derive the benefit from a certain standard of infrastructure effectively pay for it. This is opposed to the situation where Council is forced to subsidise infrastructure provision, ultimately at the expense of all its ratepayers, even though it may only be a small proportion that derive a benefit.



Final approval of Amendment 193, subject to the following modifications, is recommended.

	Clause Reference	Recommended Modification
1	12.4 (b)(ii)	Expand provision to allow for the Minister for Planning to consider extending the life of a Development Contribution Plan. The current clause gives Council this role, though a number of submissions were concerned that this did not necessarily mean the extension would be granted.
2	12.4 (c)(v)	The highest and best use for land included in a Development Contribution Plan should be quantified in relation to the structure plan for the land.
3	12.4 (e)(ii)	Expand provision to state that the cost to review the estimated infrastructure costs for an area should be met by the person who requests it.
4	12.6 (b)(iii)	Amend provision to ensure Council will lift a caveat on a property upon the owners settlement of their contribution.
5	12.7	Provision required to clearly require that development contributions will only be used for the purposes outlined in the Development Contribution Plan.
6	12.9 (a)	Correct reference to the title of the Valuer.
7	12.10 (a)	Modify provision to ensure the reference to the Town Planning and Development Act is consistent with the rest of the TPS 2 text.
8	12.10/11 (a)	Correct clause numbering/lettering.

### Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas which applies to this item is:-

2. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

### Budget/Financial Implications

N/A



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

Nil

**CMR SMITHSON JOINED THE MEETING THE TIME BEING 9.05 PM**

595. (AG Item 13.9) (OCM1\_6\_2000) - AMENDMENT NO. 206 - SUCCESS LAKES - FINAL ADOPTION - OWNER: VARIOUS - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (92206) (SOS) (EAST) (MAPS 15/16/20/21) (ATTACH)

**RECOMMENDATION**

That Council:

- (1) adopt the Schedule of Submissions as contained in the Agenda Attachments.
- (2) adopt the Amendment for final approval.
- (3) advise those persons who made a submission of Council's decision.
- (4) in anticipation of the Hon Minister's advice that final approval will be granted, the Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

**COUNCIL DECISION**

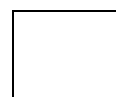
MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Council, at its meeting held on 20 April 1999, resolved to initiate Amendment 206 (Item 12.3).

The Amendment proposes the following:



- Rezoning of land bounded by Bartram Road, Kwinana Freeway, Russell Road and Thomsons Lake Parks and Recreation Reserve from “Rural” to ‘Development” zone;
- Introduction of structure planning and land use provisions into the Ninth Schedule relevant to the Success Lakes Development Area (DA 8); and
- Definition of the Amendment land as a Development Contribution Area (DCA 2) and introduction of associated development contribution requirements into the Tenth Schedule.

Refer to Agenda Attachments for plan of area and key details of the Amendment.

The Amendment area forms part of the Southern Suburbs District Structure Plan, adopted by Council in October 1999, and is now zoned “Urban’ under the Metropolitan Region Scheme.

The Western Australian Planning Commission on 4 January 2000 granted consent to advertise Amendment 206 for public comment. The period for public comment concluded on 3 March 2000.

The Commission in granting consent to advertise Amendment 206 advised that the proposal could not be finalised until Amendments 192 and 193 were finalised. As a result of the number and complexity of submissions on Amendment 192 and 193, Council, at its meeting held on 18 April 2000 (Item 13.13), resolved to request the Minister for Planning grant an extension of time to consider submissions on these Amendments. Thus there was a need to also request an extension of time in relation to Amendment 206.

### **Submission**

Reports regarding Amendments 192 and 193 are included in this Agenda. Given the recommendations to adopt these Amendments for final approval, it is also opportune for Council to consider the progress of Amendment 206.

Amendment 206 was circulated to approximately 45 landowners within and adjacent to the Success Lakes Development Area. Advertising signs were erected on the subject land and details of the proposal were posted on Council’s website. Servicing authorities were also provided with details of the Amendment proposal.

A total of seven submissions have been made on Amendment 206.

The Schedule of Submissions containing a summary of and a response to the submissions is included in the Agenda Attachments.



## Report

There is general support in the submissions for Amendment 206. Two of the submissions contain servicing advice. The remainder, whilst supporting development in the locality, have raised concern with several particular provisions of the Amendment proposal. The issues of concern are;

MRS Railway Reservation;  
Environmental Protection Policy Wetland – Drainage requirements; and  
Closure of Russell Road;

The Schedule of Submissions detail the arguments made and the recommended responses. The issues raised have not resulted in any recommended modifications and do not require further discussion in this report.

It is clear from the submissions that there is general support for the development of the Success Lakes Development Area. This is consistent with comments of support made by landowners during the advertising of the draft Southern Suburbs District Structure Plan last year. It is also assumed that there is general acceptance of the Amendment given the number of landowners who did not make any written submission.

Amendment 206 is recommended for final approval, without modification.

## 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."*
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**

N/A

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

Nil

596. (AG Item 13.10) (OCM1\_6\_2000) - AMENDMENT NO. 207 - GAEBLER ROAD - FINAL ADOPTION - OWNER: VARIOUS - APPLICANT: TAYLOR BURRELL (92207) (SOS) (EAST) (MAP NO. 16) (ATTACH)

**RECOMMENDATION**

That Council:

- (1) adopt the Schedule of Submissions as contained in the Agenda Attachments;
- (2) adopt the Amendment for final approval;
- (3) advise those persons who made a submission of Council's decision;
- (4) in anticipation of the Hon Minister's advice that final approval will be granted, the Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) adopt the Schedule of Submissions as contained in the Agenda Attachments subject to the recommendation in the Submissions being amended to read as follows:

1. Submission No.2 Item 5 - Knight Frank

Dismiss in part, noted in part.

If the High School is located in the vicinity of Gaebler Road east of the Freeway as designated in the 1993 South jandakot Mandogalup District Structure Plan, a pedestrian bridge will be required across the Freeway to



provide convenient access. Reliance solely on Rowley Road and Gibbs Road will significantly and unreasonably increase the travel distance for many students to the school from land west of the Freeway. Further this is of major concern given that it is unlikely that any direct public transport will be provided to accommodate students needs.

Several alternative High School sites are under investigation but no conclusion has been reached as structure planning of the area is dependent in part on the resolution of the nomination of Lot 204 Gibbs Road as a Bush Plan site.

Once a determination has been made on the proposed inclusion of Lot 204 in Bush Plan, the District Structure planning for the balance of the southern suburbs area will be undertaken. This will include an assessment of the secondary school requirements.

Depending on which option is pursued a pedestrian bridge may or may not be required. Part 3 of the DCA 3 covers these scenarios in that a contribution will only be sought in the event that a high school is included in the Southern Suburbs District Structure Plan south of Gibbs Road and east of the Freeway. Accordingly, the requirement as worded is appropriate and should be retained.

Part 4 of DCA 3 requires a pro-rata contribution being made. This does not preclude Council from pursuing Main Roads and Education Department for a contribution. The request for Council to take all reasonable action to have the bridge provided by others is noted. Council will pursue this matter on receipt of a submission from the land owners representatives which details arguments in support of the contributions from Main Roads and Education Department.

2. Submission No.4 item 3 - Taylor Burrell

Dismissed in part. Noted in part.

As per response to submission 2 point 5

- (2) adopt the Amendment for final approval;
- (3) advise those persons who made a submission of Council's decision;



- (4) in anticipation of the Hon Minister's advice that final approval will be granted, the Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

**CARRIED 3/0**

### **Explanation**

Cmr Smithson felt that Main Roads WA and the Education Department should be approached to make a contribution towards the pedestrian crossing of the Freeway for the school children.

### **Background**

Council, at its meeting held on 20 April 1999, resolved to initiate Amendment 207 (Item 13.2).

The Amendment proposes the following;

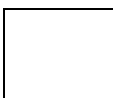
- Rezoning of land bounded by Russell Road, Public Purpose Transmission Reserve, Gaebler Road and Frankland Avenue Road Reserve from "Rural" to 'Development' zone;
- Introduction of structure planning and land use provisions into the Ninth Schedule relevant to the Gaebler Road Development Area (DA 9);
- Definition of the Amendment land as a Development Contribution Area (DCA 3) and introduction of associated development contribution requirements into the Tenth Schedule.

Refer to Agenda Attachments for a plan of area and key details of the Amendment.

The Amendment area forms part of the Southern Suburbs District Structure Plan, adopted by Council in October 1999 and is now zoned "Urban' under the Metropolitan Region Scheme.

The Western Australian Planning Commission on 4 January 2000 granted consent to advertise Amendment 207 for public comment. The period for public comment concluded on 3 March 2000.

The Commission in granting consent to advertise Amendment 207 advised that the proposal could not be finalised until Amendments 192 and 193 were finalised. As a result of the number and complexity of submissions on Amendment 192 and 193, Council, at its meeting held on 18 April 2000 (Item 13.13), resolved to request the Minister for Planning grant an extension of time to consider submissions on these Amendments. Thus there was a need to also request an extension of time in relation to Amendment 207.





## Submission

Reports regarding Amendments 192 and 193 are included in this Agenda. Given the recommendations to adopt these Amendments for final approval, it is also opportune for Council to consider the progress of Amendment 207.

Amendment 207 was circulated to approximately 40 landowners within and adjacent to the Gaebler Road Development Area. Advertising signs were erected on the subject land and details of the proposal were posted on Council's website. Servicing authorities were also provided with details of the Amendment proposal.

A total of six submissions have been made on Amendment 207.

The Schedule of Submissions containing a summary of and a response to the submissions is included in the Agenda Attachments.

## Report

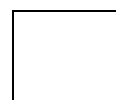
It is clear from the submissions that there is general support for the development of the Gaebler Road Development Area. This is consistent with comments of support made by landowners during the advertising of the draft Southern Suburbs District Structure Plan last year. It is also assumed that there is general acceptance of the Amendment given the number of landowners who did not make any written submission.

Whilst there is general support for the Amendment, concern has been raised with several particular provisions of the Amendment proposal. The issues of concern are;

Frankland Avenue Road Reserve width;  
Kwinana Freeway – pedestrian bridge;  
Tramway Heritage Trail; and  
Market Garden buffer

Council's attention is drawn to the Schedule of Submissions, which provides extensive detail on the issues of concern and the recommended responses. Given the level of detail in the Schedule, it is not necessary to discuss the issues in this report, other than to note that no modifications are recommended as a result of the submissions.

Amendment 207 is recommended for final approval, without modification.



### 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."*
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

N/A

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

Nil

597. (AG Item 13.11) (OCM1\_6\_2000) - AMENDMENT NO. 211 - ATWELL SOUTH - FINAL ADOPTION - OWNER: LANDCORP, GOLD ESTATES, PEET & CO - APPLICANT: ROBERTS DAY GROUP (92211) (SOS) (EAST) (MAP NO. 16) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) adopt the Schedule of Submissions as contained in the Agenda Attachments;
- (2) adopt the Amendment for final approval, subject to the following modifications;
  - i) The Ninth Schedule is to be modified by;
    - a) point 1: replacing the word "adopted" with "approved";
    - and



- b) point 3: replacing the phrase “be in accordance with” with “have regard to”;
- (3) advise those persons who made a submission of Council’s decision;
- (4) in anticipation of the Hon Minister’s advice that final approval will be granted, the modified Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Council, at its meeting held on 22 June 1999, resolved to initiate Amendment 211 (Item 14.7).

The Amendment proposes the following;

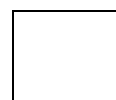
- Rezoning of land bounded by Bartram Road, MRS Groundwater Protection zone, Gibbs Road Reserve and Kwinana Freeway from “Rural” to ‘Development” zone;
- Introduction of structure planning and land use provisions into the Ninth Schedule relevant to the Atwell South Development Area (DA 10);

Refer to Agenda Attachments for a plan of the area and key details of the Amendment.

Unlike Amendments 206 and 207, Amendment 211 contains no development contribution provisions.

The Amendment area forms part of the Southern Suburbs District Structure Plan, adopted by Council in October 1999 and is now zoned “Urban’ under the Metropolitan Region Scheme.

The Western Australian Planning Commission on 4 January 2000 granted consent to advertise Amendment 211 for public comment. The period for public comment concluded on 3 March 2000.



The Commission in granting consent to advertise Amendment 211 advised that the proposal could not be finalised until Amendment 192 was finalised. As a result of the number and complexity of submissions on Amendment 192, Council, at its meeting held on 18 April 2000 (Item 13.13), resolved to request the Minister for Planning grant an extension of time to consider submissions. Thus there was a need to also request an extension of time in relation to Amendment 211.

### **Submission**

A report regarding Amendment 192 is included in this Agenda. Given the recommendation to adopt this Amendment for final approval, it is also opportune for Council to consider the progress of Amendment 211.

Amendment 211 was circulated to approximately 40 landowners within and adjacent to the Atwell South Development Area. Advertising signs were erected on the subject land and details of the proposal were posted on Council's website. Servicing authorities were also provided with details of the Amendment proposal.

A total of six submissions have been made on Amendment 211.

The Schedule of Submissions containing a summary of and a response to the submissions is included in the Agenda Attachments.

### **Report**

It is clear from the submissions that there is no major objection to the development of the Atwell South Development Area. This is consistent with comments made by landowners during the advertising of the draft Southern Suburbs District Structure Plan last year. It is also assumed that there is general acceptance of the Amendment given the number of landowners who did not make any written submission.

The main issue to arise out of the submissions is the exclusion of Lot 204 Lyon/Gibbs Road from the Amendment area. The recommendation by Council to the Commission to include Lot 204 Lyon Road in Bushplan, and thus exclude the area from Amendment 211, has been the subject of an extensive submission by Roberts Day Group on behalf of Landcorp. The Schedule of Submissions details the arguments presented in this regard and outlines the recommended responses. The request to include Lot 204 within the Amendment area is not supported. It is recommended that Council, until such time as a decision is made on Bushplan, maintain its position on the matter, that is, Lot 204 in its entirety should be included in Bushplan and reserved for Parks and Recreation in the Metropolitan Region Scheme.

Other comments made on the Amendment are dealt with in detail in the Schedule of Submissions and are not considered to require further



discussion, nor do they represent any impediment to the progression of the Amendment.

Amendment 211 is recommended for final approval, subject to a minor modification to the Amendment text as required by the Commission.

### **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."*
  
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**

N/A

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

Nil

- 598. (AG Item 13.12) (OCM1\_6\_2000) - PROPOSED AVIARIES FOR PARROT BREEDING - LOT 138; 84 EAST CHURCHILL AVENUE, BEELIAR - OWNER/APPLICANT: T WALDRON (3411630) (MT) (COASTAL) (MAP NO. 9) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) approve the application, dated 20 February 2000, for aviaries and parrot breeding on Lot 138; 64 East Churchill Avenue, Beeliar subject to the following conditions:

Standard Conditions

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N<sup>o</sup> 2;

Special Conditions

1. The aviaries being located in the area indicated on the attached plan.
2. The number of mature '28s' on the property is not to exceed 40.
3. The aviaries being constructed of a solid material on three sides with no openings.
4. The approval shall be limited for a 12 month period and shall not be continued beyond that time without the further written consent of the Council.
5. In the interests of the health and well being of the birds, the design and management of the aviary is to be based on best practice to the satisfaction of Council and the Department of Conservation and Land Management.

Footnote

1. The applicant is reminded that approval does not provide exemption from compliance with the Environmental Protection (Noise) Regulations 1997. Noise from the birds must not exceed the prescribed limit at any time.
- (2) issue a Form 2 'Approval to Commence Development' to the applicant;
- (3) advise those who made a submission of Council's decision accordingly;
- (4) prior to commencing the development all necessary approvals will need to be applied for and gained from the appropriate authorities;
- (5) if any of the conditions of this approval are not fulfilled or complied with the Council may revoke the Planning Consent.



**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) approve the application, dated 20 February 2000, for aviaries and parrot breeding on Lot 138; 64 East Churchill Avenue, Beeliar subject to the following conditions:

Standard Conditions

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N<sup>o</sup> 2;

Special Conditions

1. The aviaries being located in the area indicated on the attached plan unless otherwise agreed with Director, Planning and Development.
2. The number of mature '28s' on the property is not to exceed 40.
3. The approval shall be limited for a 18 month period and shall not be continued beyond that time without the further written consent of the Council.
4. In the interests of the health and well being of the birds and noise minimisation, the design and management of the aviary is to be based on best practice to the satisfaction of Council and the Department of Conservation and Land Management.

Footnote

1. The applicant is reminded that approval does not provide exemption from compliance with the Environmental Protection (Noise) Regulations 1997. Noise from the birds must not exceed the prescribed limit at any time.
- (2) issue a Form 2 'Approval to Commence Development' to the applicant;
- (3) advise those who made a submission of Council's decision accordingly;
- (4) prior to commencing the development all necessary approvals will need to be applied for and gained from the appropriate authorities;



- (5) if any of the conditions of this approval are not fulfilled or complied with the Council may revoke the Planning Consent.

**CARRIED 3/0**

**Explanation**

Considering the application was made in February and it has taken some time for Council to make a decision, the applicant stated that the breeding season has already commenced and for him to get the aviaries ready and start now, he would have already missed this breeding season. Cmr Jorgensen felt that for Council to fully assess the situation and that the applicant complies with the conditions, it would be appropriate to extend the trial period to 18 months. In this way it gives Council time to also assess the situation and monitor other associated activities that may take place.

Also, the design of the aviary should not be constrained by specifying that it be enclosed on three sides. This should be left open to the applicant so long as it achieves the required noise standards.

**Background**

ZONING:	MRS:	RURAL
	DZS:	RURAL
LAND USE:	HOUSE	
LOT SIZE:	4047m <sup>2</sup>	
AREA:	240m <sup>2</sup>	
USE CLASS:	USE NOT LISTED	

Application was made to build 40 aviaries to breed the variety of parrot known as ‘28s’. The application was referred to surrounding landowners. Six submissions were received, all opposing the proposal. The item was considered at Council’s April meeting with the following resolution:

- “(1) *the matter be deferred; and*
- “(2) *officers make attempts to negotiate the potential trial of a smaller number of birds to assess the impact.*”

For further background please see the minutes of the April Ordinary Council meeting.

**Report**

The breeding of parrots is classed as a “Rural Pursuit” in Council’s Scheme. The definition is worded such that “the breeding, rearing or boarding of domestic pets” is not permitted *unless* approved by Council. Buildings associated with that use can be approved by Council.





In an attempt to assess what a reasonable number of parrots would be, officers commissioned an acoustic report, which was undertaken by Herring Storer Acoustics. They made measurements at the applicants existing residence and extrapolated the results to the subject lot in Beeliar. The measurements were done on approximately 40 birds, not all '28s'. The following issues have been raised by Health officers:

1. *The report clearly states compliance will vary on occasions and suggests that if this should occur then the aviaries should be made of solid material on three sides.*
2. *Measurements were conducted on one occasions only. The amount of noise made by the birds may differ according to the number of birds present, the way they are housed, the breeding season and the time of day.*
3. *Of the 40 birds present approximately 5 were actually vocal at the time of measurement and hence recorded measurements may be indicative of the likely scenario but not the worst case scenario.*
4. *The report did not consider the impact of neighbouring properties only the properties to the north. The properties with shared boundaries were not considered.*
5. *The model for the 120 birds considers the noise emitted from 80 adults and assumes that 40 juvenile birds do not contribute to the overall noise emitted.*

In summary, the acoustic measurements can be used as a guide in Council's decision but they are not a guarantee that the use will not breach the Noise Regulation.

Predicted noise levels were modelled for 40 and 80 adult birds at the subject property. It is recommended approval be granted for 40 adult birds to be housed on the property. The applicant is satisfied with this number. The assigned level for residential premises at the most stringent time (2200 hours to 0700 hours) is 45dB. This is based on the surrounding land being rural or residential. The Environmental Protection (Noise) Regulations 1997 actually classify much of the surrounding land as industrial because it is within the Kwinana Air Quality Buffer. Noise measurements would assess the surrounding land as industrial, in which case the assigned dB is 53. However, for the purposes of accurately assessing the residential amenity impact of the proposed use it is practical to assign a level based on the reality that all the surrounding land is either residential or rural, hence the 45dB is the most appropriate maximum level.



The assigned 45dB can be achieved at a distance of 50 metres from the aviaries. It will therefore be necessary to locate the aviaries at least 50 metres from any existing residences and with a maximum setback from the lot boundaries. If the use is approved, it is proposed the aviaries be located in the area shown on the plan attached to this agenda. The area is setback 10 metres from the side and rear boundaries (which conforms with the rural setbacks. This is the most appropriate location because it ensures at least a 60 metre setback to the dwellings on the properties either side. The buildings shown on the plan within the 50 metre buffer are all sheds or outbuildings, not residential dwellings.

The proposed location of the aviaries is over 60 metres from existing dwellings, but as the plan indicates, there are considerable portions of the neighbouring properties within 50 metres of the area. It may be that a future dwelling or living area is constructed in this 'buffer' region.

### **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."*

The Planning Policies which apply to this item are:-

PD2\* Rural Setback Policy

### **Budget/Financial Implications**

N/A

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

Nil

599. (AG Item 13.13) (OCM1\_6\_2000) - REVIEW OF COMMERCIAL PROPOSALS FOR LOT 621 BEELIAR DRIVE, BEELIAR - OWNER: CITY OF COCKBURN (9607) (AJB) (COASTAL) (ATTACH)

#### **RECOMMENDATION**

That Council:

- (1) receive the Report;
- (2) endorse the recommended Master Plan as the basis of an amendment to Town Planning Scheme No. 2 subject to Drainage Area A being shown as residential;



- (3) resolve to initiate an amendment to Town Planning Scheme No. 2 to rezone Lot 621 to "Development zone", to include the land as a Development Area with the inclusion of appropriate requirement in the Ninth Schedule and rezoning of privately owned land south of Lot 621 to Residential R40;
- (4) advertise the Master Plan for public comment in accordance with the procedures for the adoption of Structure Plans in Town Planning Scheme No. 2;
- (5) refer the Master Plan to Main Roads WA with a request for agreement to provide traffic lights at the intersection of the main street and Beeliar Drive;
- (6) refer the Master Plan to the Education Department for formal consideration of the alternative school site configuration and size;
- (7) advise Evans and Gianoli, project managers for Cell 6 land owners, that Council is not prepared to provide land for the drainage of Cell 6 and this must be accommodated within that area;
- (8) advise Urban Focus, project managers for the Private land south of Lot 621, of Council's support for the recommended Master Plan and the proposed amendments to Town Planning Scheme No. 2 to give effect to the plan.

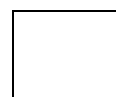
**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

ZONING:	MRS:	Urban
	DZS:	Commercial, Commercial (restricted use), Residential, Public Purpose - Primary School
LAND USE:	Vacant	
LOT SIZE:		
AREA:		
USE CLASS:		



In December 1999 Taylor Burrell Town Planning and Design were appointed to undertake a review of proposals for Lot 621 Beeliar Drive, Beeliar. Specifically the brief required the following:-

- Determination of drainage requirements to be accommodated within the subject land.
- Review the previously proposed mix of uses to determine that which is appropriate for the location.
- Prepare a recommended Master Plan for the study area.

A draft Master Plan and report have been submitted to Council for consideration.

### **Submission**

N/A

### **Report**

Lot 621 Beeliar Drive, Beeliar is owned by the City of Cockburn and is zoned commercial, commercial - restricted use, public purpose (primary school) and residential. The commercially zoned area is for the development of a neighbourhood shopping centre of some 5000m<sup>2</sup> NLA and commercial - restricted use area for showroom, warehouse and office development.

Zoning proposals for the site are based on a Master Plan of the proposed development prepared by Hames Sharley in March 1996. The brief to Hames Sharley required the preparation of a plan which integrated the proposed primary school, community purposes and retail activities and incorporated a main street. A copy of the Hames Sharley Master Plan is included in the Agenda attachments.

The Education Department recently advised that it is likely that the proposed primary school will be built within the next 2 years to replace the existing South Coogee school.

Recent investigations indicated that the old sand quarry located centrally within the land would require filling up front to enable the school to be developed in accordance with the current Master Plan and zoning. There is a significant cost involved in filling the quarry area and it would be desirable to defer this until the commercial centre is able to be developed. Council officers prepared an alternative plan which allows the school to be created without extensive earthworks. However this necessitated changes to the commercial precinct.

Prior to making any changes to the zonings etc it was considered appropriate to review the previous Master Plan, carry out research to



determine uses that would be viable in the area and prepare a recommended Master Plan that would form the basis of any amendments to the zonings of the land.

The review of existing proposals by Taylor Burrell identified the following:-

- poor integration of facilities across Beelias Drive
- low levels of walkability
- poor access and circulation within the commercial site
- over provision of land for showroom warehouse by the development (commercial - non retail)
- opportunity to reduce the proposed primary school site from 4.0 to 2.5 ha
- opportunity to more effectively link urban areas north and south of Beelias Drive with modified intersection configurations including a 4-way with either traffic lights or a roundabout.

A joint workshop including the consultant team of planners, engineers and commercial/retail specialists, Council representatives and officers from the Ministry for Planning and the Education Department was held to examine the opportunities and options for the project area and to develop acceptable guiding principles.

The recommended Master Plan reflects the outcomes of the joint workshop. Principles of the Master Plan which is included in the Agenda attachments are as follows:-

- Development of a Neighbourhood Centre which integrates commercial, community, education and residential uses.
- The main street within the Neighbourhood Centre is to be a 4-way intersection with Beelias Drive to facilitate the safe and easy movement between the urban areas north and south of Beelias Drive.
- Develop the commercial facilities with a "Main Street" frontage with the "big box" supermarket and off street carparking located at the rear of the facilities.
- To encourage street-side dining in cafes, verandahs, colonnaded arcading and/or appropriate cantilevered awnings to provide shade, shelter, and a sense of diversity to street frontages along the "Main Street".
- Provide for increased controlled access to and from Beelias Drive to improve access and circulation.
- Provide a road pattern which provides a high level of interconnectivity between the various land uses of the Neighbourhood Centre and the surrounding residential uses including the incorporation of service lanes and rights of ways which



- improve the permeability of the centre and maximises the opportunity for future redevelopment.
- Effectively utilise the Beeliar Drive frontage for commercial activities as promoted by the Liveable Neighbourhood Community Codes.
  - Re-orientation of a reduced primary school site (3.5 ha) with the buildings located at the northern end of the site to close the Main Street vista and create an edge to the Neighbourhood Centre.
  - Locate "Live/work" on the "Main Street" to promote human activity beyond standard retail hours and to provide passive surveillance to the street to improve public safety.
  - Provide for medium density housing (R40) around the Neighbourhood Centre to help support the population to foster local self containment.
  - Provision of a Town Square which relates to the commercial area, community centre and residential uses to provide space for public activities and gatherings and a passive recreation area for workers/residents.
  - Provision of a community purpose site adjacent to the Town Square for the development of a multi purpose aged care facility as identified by the Community Services Team.

Comments on specific elements of the plan are as follows:-

### 1. Sense of Community

The recommended Master Plan effectively links the urban area north and south of Beeliar Drive to form a consolidated community which has the Neighbourhood Centre as its focus.

The Main Street extension north across Beeliar Drive is an essential element in achieving a consolidated community.

### 2. Retail Activities

The shopping (retail) component of the Neighbourhood Centre fronts the "Main Street" with specialty shops which connect to the supermarket at the rear of the complex by a mall or arcade. Street parking is provided in the "Main Street" with off street parking at the rear. The configuration overcomes criticism of the Hames Sharley Master Plan of fragmented retail uses, poorly located off street parking and lack of visual exposure to Beeliar Drive.

### 3. Other Commercial

A service station and two fast food outlets are shown which is consistent with the previous plan.



The amount of land for showroom warehouse development has been significantly reduced in line with advice provided by Knight Frank and is limited to the northern frontage to Beeliar Drive and the south-eastern corner of the Beeliar Drive/Main Street intersection.

#### 4. Live / Work (Home based business)

A limited number of lots designed to accommodate live / work activities have been provided on the west side of the "Main Street" and the south side of Beeliar Drive. These areas could also be developed for grouped housing or aged persons development depending on the demand at the time of subdivision.

#### 5. Residential

The plan promotes a variety of housing types and densities ranging from single dwellings, terrace housing and small areas of group housing adjacent to the sewer easement north of Beeliar Drive.

Urban Focus who represent the owner of the land in the south-east corner of the site which was previously part of the Shopping Centre, have suggested that the land be zoned R40. This is supported on the basis that increasing densities adjacent to Neighbourhood Centres maximise the number of people within walkable catchment as promoted by the "Liveable Neighbourhood Community Codes" and that this is consistent with existing codings adjacent to the centre as per Scheme No. 2.

#### 6. Primary School

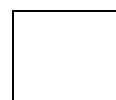
Following discussions with the Education Department the primary school has been provided with an area of 3.5 ha.

The Education Department has previously advised that any school site which includes the quarried area is only accepted on the basis that Council undertakes the necessary remediation works. The proposed primary school site occupies a portion of the land previously quarried for sand and hence the earlier advice is still pertinent.

The school site is bordered by public roads which meets the Department's criteria. The proposed road system greatly improves access to the school site from the area north of Beeliar Drive.

#### 7. Community Facilities

The Community Services team advised that there is a need to provide a multi purpose aged care facility within the area. This is located on the west side of the Main Street and adjacent to the Town Square.



## 8. Walkable Catchments

The ped shed analysis indicates a 36% rating for the recommended Master Plan compared to 17% for the Hames Sharley design. The Community Codes suggest a target rating of 60% for a good walkable catchment. However this figure is an unrealistic target for the subject land given the barrier provided by the railway abutting the eastern boundary of the land, the impact of Beeliar Drive and the location of the primary school site and Radonich Park.

It is considered that 36% is a good result under the circumstances.

## 9. Road Network

The proposed road network provides improved access, connectivity and circulation. This is primarily achieved by the formation of a 4-way intersection with Beeliar Drive and the "Main Street". Taylor Burrell consider the 4-way should be constructed as a light controlled intersection or alternatively a roundabout.

Main Roads WA approval will be required for traffic lights at the proposed intersection.

Beeliar Drive has been designated as an Integrator Road in accordance with the Community Codes. This includes limited access via service roads which incorporate on street parking. Beeliar Drive design is in accordance with Ausroads standards.

Adoption of the proposed treatment of Beeliar Drive will require modifications to the current design which is on the basis of staggered T intersections and no service roads as per the Hames Sharley option.

## 10. Drainage

The Master Plan includes three drainage areas to accommodate drainage from 10 year storms with 100 year overflow being accommodated in Radonich Park. Drainage area A north of Beeliar Drive is designated to accept drainage from Cell 6 which is north of Yangebup Road. Drainage areas B and C are designed to accommodate drainage from Lot 621.

In the early planning of Cell 6 discussions were held with Council officers about utilising a portion of Lot 621 abutting Beeliar Drive and bounded by the sewer easement for drainage purposes. Given that the triangle of land involved had limited development potential, it was considered this was a reasonable proposition subject to the owners in Cell 6 purchasing the subject land.





When the detailed subdivision application was recently processed Council officers were advised that the area required for drainage was some 2000m<sup>2</sup> which included land outside of the original area between the sewer line and Beeliar Drive. Provision of the drainage sumps in effect took out 3 - 4 residential lots that had already been approved within the subdivision of Lot 621. Consultants for Cell 6 were advised that this was not acceptable and that the drainage requirements for that area need to be satisfied on site.

This study has confirmed that a drainage area of 2000m<sup>2</sup> is required to satisfy the requirements of Cell 6. There is no technical reason why drainage cannot be accommodated in Cell 6 rather than disposed of on Council's land. There is no requirement for Council to provide for the drainage of Cell 6 within Lot 621 nor is there any advantage to Council. In fact there is a financial penalty to Council in terms of lost profit potential if drainage is provided as site A.

It is recommended that the draft Master Plan be modified to show a series of residential lots fronting Yangebup Road in accordance with the approved plan of subdivision and the consultants for Cell 6 be advised accordingly.

#### 11. Servicing

Existing servicing infrastructure including the Bibra Lake Main Sewer which extends east-west within the northern portion of the site and a 225mm sewer which passes through the primary school site are accommodated within the proposed Master Plan.

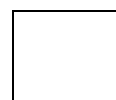
#### 12. Earthworks

The site contains an old sand quarry which has been excavated to a depth of 7m in part and needs some 175,000m<sup>3</sup> fill as part of the development. To minimise the importation of fill it will be necessary to earthwork the whole site.

The proposed primary school site occupies portion of the old sand quarry. Prior to creation of the school site it will be necessary to undertake earthworks to win surplus fill from the school site and provide the Education Department with a suitably remediated site.

#### Conclusions

Both the Hames Sharley and the Master Plan recommended in the Taylor Burrell study create integrated Neighbourhood Centres based on "Main Street" principles and include community purpose sites and a Town Square.



Further, both plans necessitate the site to be earthworked prior to the school site being created. Whilst a detailed assessment of quantities has not been undertaken at this time, it is considered that there is unlikely to be any significant differences in the cost of earthworks.

In response to this study the Education Department has informally agreed to reduce the primary school site from 4.0 ha to 3.5 ha. The additional 0.5 has been effectively used in the Taylor Burrell recommended Master Plan. Similarly the school site can be reduced to 3.5 ha in the Hames Sharley Master Plan but the additional 0.5 ha cannot be used very effectively other than by being added to existing allocated sites.

It is considered that the recommended Master Plan in the Taylor Burrell Study provides a more balanced land use allocation and in particular land for showroom warehouse (commercial - restricted use), achieves a better integration of land uses and a framework for a more vibrant community.

To implement the Taylor Burrell Master Plan it will be necessary to modify the existing zoning in Town Planning Scheme No. 2 and proposed Town Planning Scheme No. 3. There is adequate lead time to process an amendment to modify the zonings.

The recommended Master Plan provides a broad framework for the development of the Beeliar Neighbourhood Centre. However, there are elements which will require fine tuning and further consideration as the project proceeds. This includes uses such as live/ work units and aged persons development sites. To maintain some flexibility it is recommended that Lot 621 be designated and zoned "Development Area" with land use controlled through an adopted Structure Plan. The amount of retail floor space and any specific requirements could be specified in the Ninth Schedule (TPS No. 2).

The privately owned land located in the south-east corner of the previous Shopping Centre site should be zoned Residential R40.

Adoption of the Master Plan will require a redesign of the intersections with Beeliar Drive and the funding for this will be required from the developers.

### **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."*



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 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."*

The Planning Policies which apply to this item are:-

PD25\*          Liveable Neighbourhoods - Community Design Codes

### **Budget/Financial Implications**

N/A

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

Nil.

- 600. (AG Item 13.14) (OCM1\_6\_2000) - PROPOSED MOBILE PHONE TOWER AND BASE STATION - LOT 100-102; STRATA LOT 1 / 3 DOBRA ROAD, YANGETUP - OWNER: COCKBURN SELF STORAGE - APPLICANT: RIZZO ASSOCIATES (3318344) (MT) (COASTAL) (MAP NO. 8) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) approve the application for a mobile phone tower and base station on Lot 100-102; Strata Lot 1 / 3 Dobra Road, Yangebup subject to the following conditions:

#### Standard Conditions

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N° 2;



Special Conditions

1. The tower being designed so as to enable other telecommunications carriers to co-locate on the facility.
- (2) issue a Form 2 Approval to Commence Development to the applicant.
- (3) advise those who made a submission of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Donaldson that the recommendation be adopted.

**CARRIED 2/1**

**Background**

ZONING:	MRS:	INDUSTRIAL
	DZS:	LIGHT INDUSTRY
LAND USE:	SELF STORAGE UNITS	
LOT SIZE:	N/A	
AREA:	23m <sup>2</sup>	
USE CLASS:	"SA"	

**Submission**

The application is for a 35 metre high slimline monopole with 3 antennae and one microwave dish attached. Each antenna is 1.3 metres in length and the microwave dish has a diameter of 0.3 metres. The associated equipment shelter will be located inside an existing storage unit, with the pole protruding from the unit. The submitted plans are attached to this agenda.

The application was referred to the 155 landowners within 400 metres of the tower with an invitation to make comment. One response, from Main Roads, raised no objection. Nine responses, including a petition with 44 signatures on it, were received opposing the tower. Three of the submissions were from landowners on Dobra Road, in the industrial zone. They cited concern with emissions and the resultant loss of property values and difficulty leasing premises. A summary is attached to this agenda.



## Report

The issue of mobile phone towers has become a very emotive one in the community. Applications provoke a vocal response from landowners. In the City of Cockburn we have experienced this with two recent applications – in Coogee and Hamilton Hill. Three major carriers (Optus, Vodafone and OneTel) are upgrading their network in the City and there has been a proliferation of applications for mobile phone facilities. It is important that the City establish a clear and consistent practice when dealing with new mobile phone towers.

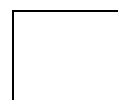
Most telecommunications infrastructure is exempted from requiring Local Authority approval by the Telecommunications Act 1997. It deems many types of facility 'low-impact'. However, towers over 5 metres in height are not exempt.

There are two reasons frequently given for opposition to mobile phone towers, both evident in the submissions for the subject application. Firstly, and most prominently, landowners are concerned at the health risks associated with emissions of electromagnetic energy (EME). There has been some publicity recently in newspapers concerning the perceived health effects of EME. Residents would rather 'be safe than sorry' in this matter, preferring that Council's refuse applications until they have been proven safe.

The Committee on Electromagnetic Energy Public Health Committee, part of the Federal Department of Communications and the Arts, has put out a facts sheet which states to following:

- The weight of national and international scientific opinion is that there is no substantiated evidence that living near a mobile phone tower causes adverse health effects.
- The Australian Standard AS2772.1 has established exposure limits to EME. EME from a tower is far below the Australian Standard (a maximum of 0.2% of the limit) as at 100 metres from the tower.
- EME has been around for 100 years or more, when wireless telegraphs were developed.

The Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) has undertaken studies of the EME of the atmosphere around mobile phone towers. Their results indicate that mobile base stations contribute 10.99% of the EME in the area. This compares with 50.55% for AM radio and 26.37% for FM radio. This indicates that mobile phone towers contribute only a small percentage of the EME in the atmosphere. The ARPNSA also verified that exposure to EME from all sources was well within the Australian Standard.



Clearly, on currently available evidence, it can not be held that phone towers are a health risk. This is not a guarantee that evidence of health risks will not become available in the future. Research is ongoing. However, Council's decision should adopt a precautionary approach, but be based on available evidence.

The second reason for opposition is the visual amenity of mobile phone towers. In the submissions on the subject application, this was stated by 2 of the landowners. Carriers often prefer prominent locations for reasons of network coverage. As the number of sites increases, the City must manage the location of new towers to minimise their impact on the skyline. Clearly the preference is for the towers to be in industrial or rural areas, where visual amenity is not such a concern. Council Policy PD32 "Location of High Voltage Overhead Power Lines and Microwave Towers" states:

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

The OneTel site at Lot 100-102 Dobra Road is in the 'Light Industry' zone. The site is situated 200 metres from the nearest residential zoned land. It is however, on the edge of the industrial area, separated from residential by Stock Road. The topography is such that the top 5-10 metres of the tower will be visible from some dwellings in Spearwood and Munster. It is not in a highly visible location, being located on lower lying land. The slimline pole with flush mounted antenna is much less visually obtrusive than the traditional lattice tower and large antennas. Location of the base of the pole and equipment shelter in the unit is a creative solution that will remove any negative amenity issues at ground level.

Following a meeting with the applicant, they have undertaken to investigate alternative industrial sites along Barrington Street with a greater separation to residential land. The outcome of these investigations should be available for the Council meeting.

PD32 requires towers to be co-located with other towers where the opportunity exists. The applicant has stated that there are no other towers in the search area of the proposed facility. The closest tower a Telstra pole on Howson Way in Bibra Lake. Their submission explains that their network will be in the high frequency band, which utilises smaller antenna, but the facilities must be more closely spaced together. Council officers have been advising consultants to ensure they use 'low-impact' solutions (location on existing towers, buildings or poles) wherever possible.



## 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."*

The Planning Policies which apply to this item are:-

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

### 601. (AG Item 13.15) (OCM1\_6\_2000) - TRAVELSMART PROPOSAL (9335) (AJB) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) advise Transport that Council is not prepared to jointly fund a Transport Survey as outlined in the offer to employ a Travelsmart Officer and accordingly the offer is declined;
- (2) advise the City of Fremantle and Town of East Fremantle accordingly.

#### COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**



## Background

In February 2000 the Department of Transport advised it was seeking to expand the Travelsmart Program through sponsorship of a limited number of part time officers in local governments and invited submissions from interested local governments.

Council at its meeting held on 21 March 2000 resolved:-

- "(1) register an expression of interest with Transport for a grant for a Travelsmart Officer;*
- (2) approach the City of Fremantle seeking support to share an officer and for the preparation of a joint submission; and*
- (3) instruct the Manager Planning Services to prepare a submission accordingly."*

## Submission

The Department of Transport has advised that the joint bid put forward by the City of Cockburn, City of Fremantle and Town of East Fremantle has been successful and that the Minister for Transport has agreed to the City of Cockburn being funded for the cost of employing a 0.4 FTE Travelsmart officer for 2 years subject to conditions.

A copy of Transport's advice is included in the Agenda attachments.

## Report

A joint submission was prepared on behalf of the City of Cockburn, City of Fremantle and Town of East Fremantle for a full-time Travelsmart officer to be shared on the basis of 0.4, 0.4 and 0.2 respectively.

The original offer by Transport was for a grant of \$40,000 per annum for 2 years. This equates to approximately \$36,000 for salary and \$4,000 superannuation. Workers Compensation Insurance would be met out of the current Strategic Planning Budget. In addition Council was also required to meet the cost of a phone service and consumables which would be minimal and accommodated within the current budget.

Transport has advised that it was impressed with the quantity and quality of bids received and found that the program was oversubscribed. The bid by the City of Cockburn, City of Fremantle and Town of East Fremantle was generally good but weak in the area of baseline travel data. Accordingly the evaluation panel has determined to make the second year of the grant offer conditional upon the City of Cockburn





committing to 50% funding of a Travel Survey data. The cost to the City of Cockburn contribution to such a survey is estimated to be \$20,000. The City of Fremantle have previously committed to a travel survey jointly with Transport. The cost to East Fremantle is \$5,000.

Transport have advised that the survey would only be for a portion of the City and would be undertaken in February/March 2001 in line with other surveys. On this basis Transport would accept that funding for the survey be in the 2001/02 Budget.

The Strategic Planning budget for 2000/01 includes a total of \$22,230 for Town Planning Studies and it is expected that a similar amount will be available in 2001/02.

There is no capacity within the current Strategic Planning budget or Principal Activities Plan to fund the Travel Survey.

Options that could be considered are as follows:-

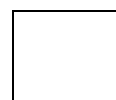
1. Not agree to fund a Travel Survey but take up the offer of a Travelsmart officer for year one.
2. Not accept the offer.
3. Amend the Principal Activities Plan for 2001/02 to increase the allocation to Strategic Planning to cover the cost of the survey and accept the offer from Transport.

The Travel Survey which would be undertaken by Transport consultants would be conducted for an agreed portion of the City and involves randomly selected households completing a survey which includes the keeping of a travel diary for all family members for a specified day. The survey provides data on trip origins and destinations and mode of transport for each.

Travel patterns and behaviour are important elements of information for the implementation of a Travelsmart Program but not considered to be essential for the purpose for which the Travelsmart officer was to be used for during the 2 year contract period.

It is considered that Option 1 of having a Travelsmart officer for year one is not practical for the following reasons:-

- Will unduly complicate a joint employment contract with City of Fremantle and Town of East Fremantle and may diminish their opportunity to attract a suitable candidate.
- Is unlikely to make a significant or meaningful contribution to public transport planning and education within one year.



Transport in making the offer to the City of Cockburn has significantly changed the ground rules by making year 2 conditional on Council committing to a Travel Survey that will cost in the order of \$20,000.

The Travel Survey will be of great value to Transport but is of limited value to Council and its planning activities.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

As there has been no funds set aside for the Travel Survey as part of the budget the offer from Transport should be declined.

The allocation to Strategic Planning Services for 2001/02 in the Budget will need to be adjusted if Council decides to pursue the Travelsmart Officer grant.

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

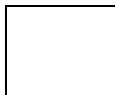
Nil

**602. (AG Item 13.16) (OCM1\_6\_2000) - IMPLICATIONS OF SECTION 3.18(3) LOCAL GOVERNMENT ACT, 1995 - REVIEW OF COUNCIL'S IMMUNISATION SERVICE (1332) (6800) (WJH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) resolve to discontinue the provision of its free immunisation service to residents at all clinics except the Atwell clinic;
- (2) resolve to discontinue the provision of its free immunisation service to residents at Atwell clinic upon the establishment of a General Practitioners surgery in Atwell;
- (3) resolve to authorise the Principal Environmental Health Officer to organise the orderly phase out of the service so as to minimise inconvenience to existing patrons;
- (4) resolve to advise the Executive Director Public Health, the Fremantle Division of General Practice, the Medical Officer of Health and local Child Health Nurses of Council's decision.



**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

This report has been prepared in response to Section 3.18(3) of the Local Government Act 1995. This section states that:

“(3) *A local government is to satisfy itself that services and facilities that it provides –*

*(a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body:*

*(b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*

*(c) are managed efficiently and effectively.”*

The majority of Council’s Health Services are provided under the provisions of the Health Act 1911 and the Environmental Protection Act 1986. Other acts such as the Caravan Parks and Camping Grounds Act 1995, the Tobacco Control Act and the Liquor Licensing Act 1991 also influence service provision.

The Health Act 1911 (the Act) is the principal act that determines service provision by Council’s Health Service. The Act covers a wide range of public health issues and provides the head of power for approximately thirty sets of regulations and Council’s Health Local Laws.

Section 26 of the Act provides that:

*“Every local government is hereby authorized and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder...”*

And Section 343A(4) requires that:

*“A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation was a local law.”*

Whilst the Health Department of WA has relevant powers, these sections of the act clearly place the responsibilities for administering the



provisions of the Health Act on the relevant local government. Recent amendments to some regulations (eg Health (Public Buildings) Regulations, Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations) have resulted in further devolution of responsibility to local governments.

In order to provide guidance to local governments the Health Department of Western Australia (HDWA) has published a list of relevant activities setting out minimum and desirable rates of inspection. When Council's Health Service's performance was assessed by HDWA in 1998-99 it was assessed against those criteria.

From the above it can be seen that there is little scope for service reduction in administration of Health Act Regulations. A few areas do however warrant further investigation. One such area is Council's free immunisation service.

### **Submission**

N/A

### **Report**

Section 340 of the Health Act states that "*Any local government may provide for immunisation...*" which shall be "*...wholly free of cost to the person treated...*". Similar power rests with the Executive Director, Personal Health. Clearly the provision of immunisation services to the community is discretionary.

Vaccines available through the current service include:-

- Diphtheria and Tetanus
- Whooping Cough
- Hib Meningitis and Epiglottitis
- Pedvax Hib Meningitis and Epiglottitis(\*Aboriginal & Torres Strait Island Children only)
- Polio
- Measles, Mumps and Rubella (German Measles)
- Hepatitis B (for at risk children and offered to all children at 12 years of age))

These vaccines are provided In accordance with the schedule recommended by the NHMRC and HDWA.



Clinics are conducted in accordance with the following timetable.

**IMMUNISATION DAYS - (PUBLIC HOLIDAYS EXCEPTED)**

<b>CHILD HEALTH CENTRE</b>	<b>DAY</b>	<b>TIMES</b>
<b>ATWELL</b> Atwell Community Centre	Alternate Mondays	12 noon - 12.30pm
<b>SOUTH LAKE</b> South Lake Drive	Alternate Thursdays	12 noon - 12.30pm
<b>SPEARWOOD</b> Civic Centre Hall Coleville Crescent	Fridays	12 noon - 12.30pm
<b>YANGEBUP</b> 11 Dunraven Drive	Alternate Thursdays	12 noon - 12.30pm

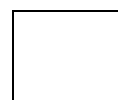
This service costs Council in the order of \$23,500 per annum (not including venue costs for which no charge is levied) or approximately \$24.80 per contact. Income of approximately \$5,500 per annum is received from the Health Insurance Commission for providing information regarding vaccines administered.

The City of Cockburn has provided a free immunisation service to the community for approximately thirty years. In the early days, Council was the major provider of immunisation services in the district, with proportionally far fewer doctors, a comprehensive program including schools immunisation, and significant support from the State Government. Local government delivered programs were seen as the main vehicle for providing immunisation.

Since the late 1970's numbers of patients attending Council clinics have been steadily declining reflecting the general decline in immunisation participation rates, and partly due to the increased number of doctors surgeries, shift of emphasis by the Commonwealth Government and incentives provided to GPs. In the past five years the number of client contacts using Council's service has fallen almost 16%. In 1999 there was a total of 957 patient contacts with Council's Immunisation Service. It is estimated (after adjusting for patient profile and immunisation frequency) that approximately 590 individual patients used the service in 1999.

The Australian Bureau of Statistics (1995) report that doctors surgeries provide 64% of Vaccinations and Local Council's 19%. It is clear that the majority of vaccinations are administered by local General Practitioners.

In February 1997 the Federal Government announced several initiatives as part of a plan to increase declining immunisation levels.



The first of these was a \$6 (ACIR Payment) fee payable to all providers for reporting vaccination events. This fee is currently the only immunisation-derived income that Council receives.

In July 1998 the following incentives were made available to GPs.

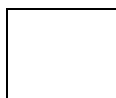
- A service incentive payment of \$18.50 paid together with the ACIR payment on the completion of each schedule as per the National Health Medical Research Council (NHMRC) standards for childhood immunisation. The service incentive payment is made when the ACIR receives the completed notification from the GP;
- An outcomes payment is paid quarterly to practices that reach an immunisation level of 70%, 80% and 90% in the first year and 80%, 90% in the second year. The outcomes payments commenced on 1 August 1998.
- Incentives are provided to recognise the vital role Divisions of General Practice play, working closely with GPs and other immunisation providers in developing collaborative strategies to increase childhood immunisation. The funding provided to Divisions was \$3m in the 97/98 financial year and a further \$3m in each of the 1998-99 and 1999-2000 financial years.
- Funds have been provided for the development of State/National Coordinators to help Divisions set up appropriate structures to support immunisation on a national and state basis. This part of the program is designed to establish better links with other providers, develop education and training material and target groups with low immunisation levels.

These incentives are in addition to consultation charges for the administration of the vaccine. Federal government policy clearly favours service provision by GPs, which it has been reported has had some impact in increasing immunisation levels in the community.

In June 1997 the Metropolitan Environmental Health Management Group (MEHMG) (then known as the Metropolitan Principal Environmental Health Managers Group) formed an Immunisation Working Group to examine the role and effectiveness of local Government immunisation services. The final report of the group was presented to the MEHMG meeting of 8<sup>th</sup> March 2000.

The final report summarised some of the facts as follows:

- *“There is no mandatory requirement under the Health Act to provide immunisation services.*



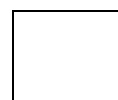
- *There is a specific requirement under the Act that local government immunisation services be “free”.*
- *Local government is obliged to utilise doctors and nurses for immunisation delivery.*
- *Immunisation at a doctors surgery can be provided by an accredited nurse.*
- *Investigations with the Health Department of WA have failed to gain approval for Community Health Nurses providing immunisation.*
- *The Federal incentives provided for General practitioners clearly discriminate against local government.*
- *There is no funding or incentives proposed for Local Government now or in the foreseeable future for immunisation services.*
- *Local Government is not consulted in regard to changes to immunisation schedules or immunisation practices.”*

In considering the requirements of Section 3.18 of the Local Government Act 1995, the report concludes that: *“Although local government is strictly not in competition with general practice what would happen if local government no longer provided the service? The answer is simple, the other service providers would take up the shortfall.”*

Clearly there are some major financial disincentives to Council continuing to provide immunisation services. It could also be argued that this might constitute inappropriate duplication of services provided by a private body, particularly in areas where GPs are well established

In 1998, as a part of an administrative review of the service, a survey of the service’s customers was conducted. This survey showed that 98% of those surveyed would return to use the service again. Assuming that 19% of vaccines administered by Council, with a high rate of customer satisfaction, it could also be argued that Council’s service meets the needs of a niche market and as such does not constitute inappropriate duplication.

In October 1999 the City of Wanneroo carried out a survey of immunisation services provided by local governments in the Metropolitan area. The survey was sent to all 29 metropolitan local governments with 22 forwarding replies. The summary of survey results is attached to the agenda. Please note that in the summary the cost per treatment for the City of Cockburn is not a full costing but based on Doctor’s fees and cost of consumables only. From the survey and a ring around of Council’s that did not respond to the survey 34.5% of metropolitan do not provide a free immunisation service.



There is no clear answer to the question as to whether Council should consider the provision of the free immunisation service to be an inappropriate duplication of a service provided by other private bodies. Accordingly two alternative recommendations are provided.

The first alternative recommendation, to discontinue the service, has been framed to ensure that an immunisation service continues to be provided in the locality of Atwell until a GP is established there, and to provide administrative flexibility to allow a phase out of the service so as to not unnecessarily inconvenience existing patrons.

The second alternative recommendation allows for the view that the service does not inappropriately duplicate services by others, but that it is complimentary. It also allows for the Principal Environmental Health Officer to make administrative changes to the service to ensure that the service is managed in an efficient and effective manner.

It is important to also point out that the transcripts of the Inquiry into the City of Cockburn, made it clear in relation to the Council actions pertaining to Lot 17, that it should make decisions that are in the financial interests of the community and should not be seen to be providing an improper benefit to a ratepayer or a limited number of ratepayers. Given this, to continue to provide a free immunisation service that can be easily and conveniently provided by others, is not in the community's best financial interest. Also it is a service that benefits a small group of ratepayers.

The officer recommendation is clear.

However, if the Council decided to continue to provide an immunisation service then it could resolve as follows:-

- (1) having considered the provisions of Section 3.18(3) Local Government Act, 1995 and the nature of Council's free immunisation service, is satisfied that the service does not inappropriately duplicate services provided by any other body or person, whether public or private;
- (2) resolves to continue the provision of the free immunisation service;
- (3) authorises the Principal Environmental Health Officer to regularly review the service and make administrative changes in order to ensure that the service is managed efficiently and effectively.





### 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."*
  
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."*

### Budget/Financial Implications

Total withdrawal of the service will result in a saving of \$23,500 of direct and indirect costs and loss of income of \$5,500 resulting in a net saving of \$18,500. This would allow for a reduction of the Immunisation account No. 195460 from \$17,000 to \$2,500 for a full year. Note that the balance of \$2,500 would be required to provide the free flu vaccinations to staff and Councillors.

There will also be a saving of approximately 120 hours of Clerical Officer and Senior EHO administration time, valued at approximately \$2,500, which has not been factored into the above costing.

Continuation of the Atwell Clinic would require funding of approximately \$3,500 for the full year.

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

This agenda item is a direct consideration of this section of the Act.

### 603. (AG Item 13.17) (OCM1\_6\_2000) - LOCAL GOVERNMENT RATE EQUIVALENTS (5230) (SMH) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) receive the report;

- (2) write to the Office of the Premier advising that the Council objects to the Government Policy which requires Alinta Gas, Western Power, Water Corporation, Port Authorities and Landcorp to pay local government rate equivalents to the State's Consolidated Fund in order to comply with the Federal Government's National Competition Policy, and that in the interests of the local government, the Policy should be reviewed so that local government rates are paid by State Agencies to the respective local governments as does any other landowner;
- (3) advise the Western Australian Municipal Association of its decision, and seek its support to have the policy changed in the interests of local governments within the State.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

The background to this matter is contained in the report to Council of 21 March 2000 (Item 13.15).

This report was based on the provisions of the Western Australian and Authority Act.

This came to the Council's attention by the Clause 20(1) repealing Section 32 to the Act, which stated that the Authority (Landcorp) is liable to pay all Government or public authority rates, taxes and duties **except local government rates**.

The new Section 32(4) requires the authority (Landcorp) to pay a **tax equivalent** amount to the Treasurer **equal to the amount of the local government rates**.

This was seen to be unacceptable.

Letters expressing the Council's concern were sent to:-

- Chief Executive Officer of WAMA
- Minister for Lands
- Minister for Local Government
- Federal Treasurer
- Federal Minister for Fremantle
- All Local Members of Parliament
- Urban Development Institute



Disappointingly, responses have only been received from Hon Doug Shave, Hon Paul Omodei, Monica Holmes MLA and the Premier/Treasurer.

### Submission

A copy of the letter of response from:-

- |   |         |
|---|---------|
| • The Hon Minister for Lands            | 19/4/00 |
| • The Hon Minister for Local Government | 1/5/00  |
| • Monica Holmes MLA                     | 11/5/00 |
| • The Premier and Treasurer             | 26/5/00 |

is attached.

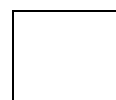
Of interest is that:-

- The Hon. Minister for Lands has no objection to Landcorp paying local authority rates if it had the capacity to do so.
- The Hon Minister for Local Government has sympathy for the Council's views, but it is outside his Ministerial responsibilities.
- Monica Holmes MLA, forwarded the Council's correspondence to the Treasurer.
- The Premier states that it appears the Council has concerns relating to Government Policy rather than a breach of competitive neutrality principles. This of course is correct.

It is disappointing that there has been no response from WAMA, which should be supporting the endeavours of local government to maintain and improve the delivery of services and facilities by local government.

Of interest is that the State Policy on the payment of local government rates equivalents not only applies to Landcorp, but also to other agencies. This makes the situation worse for local governments than it first appeared.

Although the Premier refers to "Government Policy", it is clear, based on the proposed changes to the Western Australian Land Authority Act that the terms of the policy are being translated into law, which means that the State's position on the payment of rates equivalents becomes obligatory. It is therefore difficult to understand what is meant by policy.



## **Report**

The Council should respond to the Premier/Treasurer objecting to the policy and request it be reviewed.

## **Strategic Plan/Policy Implications**

N/A

## **Budget/Financial Implications**

The National Competition Policy provided a potential for local government to achieve an increase in its rate revenue from privatised Government Agencies. In the case of Landcorp, the potential existed for the pre 1992 rating situation (ie: non-exemption) to be reinstated however, this has been circumvented by the State Government's legislation.

This potential income has been lost to local government because of the way in which the State has sought to comply with the National Competition Policy.

Every endeavour should be made to have the proposed legislation changed so that local government, in the interests of their respective communities, can achieve the additional income owed to it as a result of decisions by the State to privatise and corporatise State agencies involved in the ownership and development of vacant land.

Just like the State, local government is responsible for providing services and facilities to the Western Australian community for no other reason than to build a better Australia. Like the State, it must maximise its opportunities to collect revenue to achieve its community objectives.

This is an important equality of government issue.

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

The Government Policy relating to the payment of local government rates equivalents appears to be contrary to the requirements of Section 3.18(3) of the Act imposed by the State on local government, in that the policy:-

1. does not integrate or co-ordinate with the current rating and property records maintained by the Council and available for public inspection under Section 5.94 of the Act;
2. duplicates the collection of local government rates;



3. does not represent an efficient or effective way to comply with the requirements of the National Competition Policy because:-
- (i) it introduces a method of tax equivalent collection, when a local government collection method already exists;
  - (ii) the collection method uses State resources to ensure the financial status quo of the State is retained;
  - (iii) the proposed changes do not represent the re-distribution of new money within the community.
  - (iv) the tax equivalent of local government rates is ineffective because it is not committed to the provision of local community services and facilities, but collected by Treasury as consolidated revenue. This means that potential rate collections are being diverted from its fundamental 'purpose'.

**604. (AG Item 13.18) (OCM1\_6\_2000) - ERECTION OF 'WELCOME TO THE CITY OF COCKBURN' SIGNS ON ROTTNEST ISLAND AND CARNAC ISLAND (9131) (SMH)**

**RECOMMENDATION**

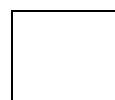
That Council:

- (1) subject to an agreement with the Rottnest Island Authority, erect a 'Welcome to the City of Cockburn' sign on the beach at the end of the Thomsons Bay Jetty and at the public entrance to the Rottnest Island Airport;
- (2) write to the Rottnest Island Authority advising of the Council's decision;
- (3) subject to an agreement with the Department of Conservation and Land Management, erect a 'Welcome to the City of Cockburn' sign on the beach on the mainland side of Carnac Island;
- (4) write to the Department of Conservation and Land Management advising of the Council's decision.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that no action be taken on this matter.

**CARRIED 3/0**



## **Explanation**

As the City of Cockburn has no active role in the management, care or control of those islands, it would be wrong to misrepresent that and in time to come, Council may receive requests for work to be done on the islands. Cmr Jorgensen's view was that the money could be put to better use than providing signs on the islands.

## **Background**

Both Rottnest Island and Carnac Island are within the District of the City of Cockburn.

Refer to the Electoral Distribution (Rottnest Island) Amendment Act 1987.

Rottnest Island is controlled and managed by the Rottnest Island Authority. The Council has no responsibilities in respect to the Island.

Similarly, Carnac Island is controlled and managed by the Department of Conservation and Land Management.

## **Submission**

N/A

## **Report**

Very few people in Metropolitan Perth would be aware that Rottnest and Carnac Islands form part of the District of the City of Cockburn. A fact that the City should be proud of.

The erection of the 'Welcome to the City of Cockburn' sign would make the public visiting both Rottnest and Carnac Islands, aware that they are actually visiting part of the City. This is no different from the public visiting Coogee Beach, Woodman Point, Bibra Lake or Adventure World.

The erection of signs at the public entrances to Rottnest and Carnac Islands, is not inconsistent with the Council having already erected its new "logo" signs at the main public gateways into the district on the mainland.

This initiative would greatly assist in re-creating the "blighted" image of the City of Cockburn, which is based primarily on the historic industrial activities conducted at North Coogee in association with the Robb Jetty Abattoir.



The City needs to promote and project itself in accordance with its mission statement for the district.

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

Our Mission is to make the district of the City of Cockburn the most attractive place to live, work and visit in the Perth Metropolitan Area.

### **Budget/Financial Implications**

The cost of each welcome sign is in the order of \$8,000 and erection could cost \$1,000 given the need to transport the sign, locate it and erect it. The total cost for erecting the 3 signs could be in the order of \$27,000. This amount will be subject to available funding.

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

There is no duplication of service by erecting a welcome sign within the district on land controlled by the Crown.

- 605. (AG Item 13.19) (OCM1\_6\_2000) - PASQUARELLI AUTOMOTIVE - 96 FORREST ROAD, HAMILTON HILL - OWNER/APPLICANT: ANTONIO AND OLIMPIA PASQUARELLI (2203804) (SR) (WEST) (MAP NO. 7) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant its approval to an Automotive Service Centre on Lot 83 (96) Forrest Road, Hamilton Hill in accordance with the approved plan subject to the following conditions:-

#### Standard Conditions

1. Standard conditions contained in Council Policy PD17 as determined appropriate to this application by the delegated officer under clause 7.6 of Town Planning Scheme - District Zoning Scheme No. 2;

#### Special Conditions

1. Access to the retail shopfront being made available to the public from the front of the building and separate from the Service area and in accordance with the approved plan;
- (2) issue a MRS Form 2 Notice of Approval valid for a period of 2 years.



**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) grant its approval to an Automotive Service and Retail Centre on Lot 83 (96) Forrest Road, Hamilton Hill in accordance with the approved plan subject to the following conditions:-

Standard Conditions

- 1. Standard conditions contained in Council Policy PD17 as determined appropriate to this application by the delegated officer under clause 7.6 of Town Planning Scheme - District Zoning Scheme No. 2;

Special Conditions

- 1. Access to the retail shopfront being made available to the public from the front of the building and separate from the Service area and in accordance with the approved plan;

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

**CARRIED 3/0**

**Explanation**

Earlier this year the application was for the granting of an automotive service centre and was refused for exactly the same use by description because it was a use that could not be approved by Council. The words "and Retail" have been added. The intent of the report was to come up with an alternative view of the use which Council has investigated and given its approval.

**Background**

ZONING:	MRS:	Urban
	DZS:	Commercial
LAND USE:	Currently Motor Vehicle Servicing & Repairs	
LOT SIZE:	1062 m <sup>2</sup>	
AREA:	1062 m <sup>2</sup>	
USE CLASS:	To Be Determined	

The existing land use of the site as a motor vehicle servicing centre, was brought to Council's attention by a complainant. The complainant operates a similar business (automotive repairs) and states that when the subject property was for sale in 1999, he contacted the Council and





was advised by staff that such a use could not be approved as it was classified as an 'X' use in the 'Commercial' zone.

The site was approved as a Car Sales Yard in 1982 with conditions restricting the use of the garage to the storage and display of motor vehicles. The previous car sales yard ceased business and the garage is now used for motor vehicle repairs.

A previous planning application was considered by Council at its meeting of 21 March 2000 and Council resolved as follows:-

*"(1) refuse the application for an Automotive Service Centre for the following reason:*

*The use cannot be approved by Council within the 'Commercial' zone.*

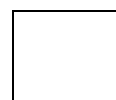
- (2) issue an MRS Form 2 Notice of Refusal to the applicant accordingly;*
- (3) advise the applicant to cease unauthorised use of the site; and*
- (4) invite the applicant to discuss with the Director Planning, the options for the use of the land."*

## **Report**

Following discussions with Council officers, the applicant has submitted a revised application for a 'Service Industry'. The applicant proposes to change the character of the existing unauthorised use by the addition of a front counter for the retail sale of car parts and accessories plus the stocking of oils and car wash products to give a new dimension to the current use of land. Based on this inclusion of a retail counter, the proposed use could be classified under the Scheme as 'Industry - Service'.

The matter which requires Council's determination, is the correct categorisation of the use class. The following use class definitions were considered by Council at its meeting on 21 March 2000:

1. **'Motor Vehicle Repair Station'** ('X' use) - on face value, this seems the appropriate use class however, it is specifically defined as including *"tyre recapping, retreading, spray painting and chassis reshaping"*; none of which occur on the subject site. Council's Solicitors advise that this is not the appropriate use class.
2. **'Industry-Service'** ('AA' use) - is defined as *"a light industry carried out on land or in Buildings which may have a retail shop*



*front and from which goods manufactured on the premises may be sold or Land and Buildings having a retail shop front and used as a depot for receiving goods to be serviced". This was the use class under which an Automasters facility was permitted by Council to operate in a 'Commercial' zone, by virtue of the inclusion of a small retail shopfront.*

3. **'Industry-Light'** ('X' use) - is defined as "*an Industry in which the processes carried on, the machinery used and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products*".
  
4. **'Service Station'** - the use class is defined in the Scheme to mean "*Land and Buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use but does not include transport depot, panel beating, spray painting, major repairs or wrecking.*"

The Officer's opinion is that the correct use class category is 'Industry - Service' as the activities now involve a Light Industry in conjunction with a retail shopfront.

### **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."*

### **Budget/Financial Implications**

N/A

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

The applicant may have a right of Appeal to the Minister for Planning or the Town Planning Appeals Tribunal in the event that the application is refused.



**606. (AG Item 13.20) (OCM1\_6\_2000) - ADDITION TO COUNCIL'S STANDARD SUBDIVISION CONDITIONS - RETAINING WALLS (9003) (SMH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) add the following subdivision condition to Policy PD16 - Standard Subdivision Conditions and Footnotes:-

**"75B Retaining Wall - Location**

*Where subdivision works includes the installation of retaining walls, the wall shall be located so that the footing and the top of the wall are fully within the boundaries of the lower lot, and the wall is to be protected by an easement, prepared by the subdivider to the satisfaction of the local government."*

- (2) amend its Policy Manual accordingly.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

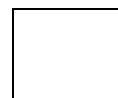
**CARRIED 3/0**

**Background**

At its meeting in April 2000, the Council resolved:-

- "(1) *the matter be deferred;*
- (2) *advice be sought from the Western Australian Planning Commission on dividing fences; and*
- (3) *legal advice be sought from Council's Solicitors on the merits of the Policy."*

It was felt that as the issue on dividing fences can be a notorious situation between neighbours, advice be sought from the Western Australian Planning Commission as to what standards exist at other Councils. It was also decided that legal advice be sought from Council's Solicitors.



Due to recent complaints about the responsibility for retaining walls and the erection of common fencing within subdivisions, particularly residential subdivisions, it is necessary to ensure that this can be facilitated with a minimum of difficulty.

A case in Regent Court at Thomsons Lake illustrates the point. Here the subdivider erected retaining walls between lots without a building licence. The stability and suitability of the walls is now a matter for the owners.

Regardless of whether the walls are approved or unapproved, because the walls are located within the boundary of the high (retained) lots the owner of a property on the low side cannot erect a fence behind the retaining wall because it is on the adjoining property.

Owners generally want to erect the fence on or at the top of the wall so that they can achieve maximum privacy.

In the case in Regent Court, the owner of the high lot has no intention of commencing a house and therefore does not want to erect a fence. The owner of the low lot cannot get approval to enter the adjoining owners land to erect the common fence.

### **Submission**

Attached are responses from the Ministry for Planning (15 May 2000) and McLeod & Co (17 May 2000).

### **Report**

The basic principle to the construction of retaining walls to enable land to be levelled on the boundary of land in different ownerships is that the owner who is changing the natural level is responsible for retaining the cut or the fill. The works, unless mutually agreed between the owners to do otherwise, is for the retaining wall to be wholly within the property where the level is being changed.

So that each individual does not have to undertake earthworks to establish a level building lot, the subdivider, for marketing reasons, pre-levels the land by erecting retaining walls between lots on naturally sloping land. The best way to deal with this is for the retaining walls to be located wholly within the lower lot, so that owners can erect a fence independently of each other.

The response from the Ministry for Planning is not useful. The Ministry approves subdivision, the Council makes recommendations. It could be months before a final response is received. The Ministry should have the



in-house expertise to deal with the Council's proposal. It is relatively simple. At the moment there are no rules to deal with this matter. In the case of the Regent Court problem the subdivider arbitrarily decided to put the walls in the higher block.

It was doubtful that before this decision was taken that the Ministry invited comment from WAMA, UDIA, HIA and the District Planning Committees.

The advice from McLeods, tends to apply to land in its natural state. In any event, where a wall exists, the physical risks associated with retaining walls apply regardless of the position of the boundary. However, to protect the interests of the owner of the higher land, an easement should be placed over the wall to prevent it from being modified or removed, which could place any buildings erected on the higher land at risk.

The location of the lot boundary behind the top of the wall together with an easement over the whole of the wall appears to be a desirable and workable outcome.

The whole purpose of this proposed condition is to make the situation clear to subdividers, who intend to include retaining walls in their subdivisions, to protect the interests of the future landowners and to minimise the potential for the Council and its administration becoming embroiled in time consuming arguments about dividing fences.

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

A revision to the standard conditions for subdivision is required. Amend Policy PD16.

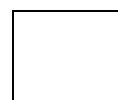
### **Budget/Financial Implications**

By including this requirement as a standard condition it could reduce the amount of staff time involved in trying to resolve matters such as this between unco-operative owners.

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

Council only makes recommendations on proposed subdivision to the WAPC. The Council, therefore, must rely on the WAPC including its recommended condition in its conditional approval.

This is the most efficient and effective way to attempt to resolve this potential problem, but it relies totally on the co-operation of the WAPC.



607. (AG Item 13.21) (OCM1\_6\_2000) - AMCOR - APPEAL (NO. 10002.00L) SAND AND LIMESTONE EXCAVATION - PT LOT 3, 11 AND 13 AND 2472 SUDLOW, PHOENIX AND NORTH LAKE ROADS, BIBRA LAKE (1101294) (SMH) (NORTH) (MAPS 7,8,13 &14)

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) in the event that the Appeal by Amcor against the refusal of the Council to approve sand and limestone excavation on Pt Lot 3, 11, 13 and 2472 Sudlow, Phoenix and North Lake Roads, Bibra Lake, is upheld or upheld with conditions that are unacceptable to the Council, that the Director of Planning and Development seek legal advice as to what actions it can pursue to challenge the decision of the Hon. Minister for Planning.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) receive the report;
- (2) await the Minister's determination before reconsidering the matter.

**CARRIED 3/0**

**Explanation**

Cmr Smithson felt that Council should not be taking pre-emptive action assuming that the Minister will not give due and proper consideration on the matter.

**Background**

The Council at its meeting on 21 December 1999 refused an application by Amcor to extract sand and limestone from the balance of its land located south of Phoenix Road and between Sudlow and North Lake Road.

Amcor appealed the Council decision to the Hon. Minister for Planning on 17 February 2000.

The appeal was prepared by Masterplan Consultants.



The land is to be purchased by Landcorp. Landcorp proposed to extensively clear and mine the site as a prelude to an industrial subdivision.

In 1992, the Council received a similar application from Amcor to quarry the land which was also refused by the Council. This was appealed. The Hon. Minister dismissed the Appeal.

### **Submission**

A representative of the Hon. Minister's Appeal Committee met with the Director Planning and Development and the Manager for Development Services to discuss the Appeal and the Council's response. This was held on 17 April 2000.

To date there has been no further advice as to the outcome of the Appeal.

### **Report**

It is understood that if the Council believes that the Hon. Minister has erred in law or in fact the Council can challenge the appeal decision in the Supreme Court. Legal advice about this and any other options needs to be clarified by Council's Solicitor.

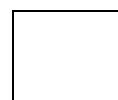
The Council is opposed to the mining of this good quality bushland adjacent to South Lake. Similarly the community is concerned and has expressed its strong objection at Council meetings, public meetings and in written submissions.

The land is zoned Industrial and therefore industrial development is a right.

Excavation is a use "not permitted" (AA) unless the Council determines otherwise. The excavation of sand and limestone from the land is therefore not a right. It is a discretionary decision of the Council. The Council refused approval.

The Council's decision of refusal included an invitation to Landcorp to discuss an alternative approach to the land in an endeavour to conserve a semblance of the land's natural bushland characteristics. There was no response from Landcorp.

The Council staff are confident that a well researched, prepared and argued response to the Appeal has been submitted, and hopefully will cause the Hon. Minister to dismiss the Appeal.



However, no decision has been made.

This is a very important decision for the district and the community and therefore if the Appeal is upheld, then the Council should ensure that it has exhausted all the planning and legal avenues available to it to prevent the land from being quarried. The Council's grounds for refusal are sound and continue to apply.

If the Appeal is upheld then the Director of Planning and Development can make the necessary enquiries of Council's Solicitor without delay and report to Council accordingly at a subsequent meeting.

### **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 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."*
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**

Until a decision on the appeal has been made by the Minister and a decision is made by the Council to pursue alternative action, if appropriate, the likely costs at this stage are unknown.

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

Not applicable.

Appeals form part of the statutory process.





**608. (AG Item 14.1) (OCM1\_6\_2000) - LIST OF CREDITORS PAID (5605)  
(KL) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for May 2000, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**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**

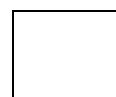
N/A

**Budget/Financial Implications**

N/A

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

Nil



**609. (AG Item 14.2) (OCM1\_6\_2000) - PURCHASE OF LOT 303 PRINSEP ROAD, JANDAKOT (5515802) (KJS) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) purchase Lot 303 Prinsep Road from Main Roads Western Australia for \$120,000 with funds being drawn from Restricted Funds - General Deposits Account and the Budget; and
- (2) amend the Budget accordingly.

TO BE PASSED BY ABSOLUTE MAJORITY OF COUNCIL

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Lot 303 is land owned in freehold by Main Roads WA, purchased in association with the Kwinana Freeway construction. Main Roads WA has a valuation by Licensed Valuers, Chesterton International for \$120,000 and has offered the land for that amount.

**Submission**

N/A

**Report**

In 1994, Council sold land at JAA Lot 455 and 456 that was formerly "Bryant Reserve", land reserved for recreational purposes. Conditional on the sale of the land, was that the funds be held in trust and only used to purchase replacement public open space land. There are sufficient funds held to effect the purchase of Lot 303.

Lot 303 is comprised of vegetation typical of this area and will be a valuable additional recreational land held by the City. Future planning will see Prinsep Road continued through to Solomon Road and the area subdivided into an industrial estate. Conserving remnant bushland will be all the more important once this future development has taken place.



**Strategic Plan/Policy Implications**

Maintaining a balance between the natural and built environment is an objective of the Strategic Plan.

**Budget/Financial Implications**

Funds are available in the Restricted Funds - General Deposits Account.

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

Nil

**610. (AG Item 14.3) (OCM1\_6\_2000) - PRINCIPAL ACTIVITIES PLAN - 1 JULY 2000 TO 30 JUNE 2004 (5406) (ATC) (ATTACH)**

**RECOMMENDATION**

That Council adopt the Principal Activities Plan for the period 1 July 2000 to 30 June 2004, as attached to the Agenda with additional Performance Indicators added to the Governance Section as follows:

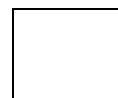
- (1) Percentage of Agenda Items deferred;
- (2) Percentage of Agenda Items supported;
- (3) Percentage of Agenda Items not supported; and
- (4) Percentage of Agenda items amended.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council adopt the Principal Activities Plan for the period 1 July 2000 to 30 June 2004, as attached to the Agenda.

**Explanation**

Cmr Jorgensen's view was that it would incur unnecessary costs to the City of Cockburn to collect and collate statistics. The percentage of agenda items deferred or supported is not an assessment of a Council's best practice, but is the manner and quality by which they are dealt with and cannot be measured by statistics. He felt that it would be a waste of ratepayer funds.



## Background

Under the Local Government Act 1995, each year the City is required to prepare a Plan of its principal activities for the next four years. The Plan must be advertised for public comment for a period of six weeks. When adopted, the Plan is the basis for the annual budget for the City.

## Submission

One submission was received by the advertised closing date for submissions. The submission by Mr. Crook proposed that under the Governance Section performance indicators be shown for:

- a. How many motions are deferred at each Council meeting.
- b. How many motions are rescinded at each Council meeting.
- c. A breakdown of the length of meetings to show public input time.

A copy of his letter is attached to the Agenda. The questions raised in his letter will be answered after the results of his submission are known.

## Report

The submission by Mr. Crook can be accommodated by the addition of three performance indicators to the Governance Section of the Principal Activities Plan. They are:

1. Percentage of Agenda items deferred.
2. Percentage of Council decisions rescinded.
3. Average length of Public Question Time.

Some of the figures shown in the Draft Principal Activities Plan has been varied in the final Plan submitted. These amendments reflect changes in responsibility for various expenditure accounts between Service Units. The overall result remains the same except for the addition of the transfer to the Naval Base Caravan Park Reserve of \$36,000. There has been no change to the proposed 1.5% rate increase for 2000/01.

Performance Indictors (2) and (3) shown above are not supported. Decisions are rarely rescinded and the average length of question time varies significantly according to issues. It is proposed that Performance Indicator (1) shown above be expanded to read:

- (a) Percentage of Agenda Items deferred
- (b) Percentage of Agenda Items supported
- (c) Percentage of Agenda Items not supported
- (d) Percentage of Agenda items amended



This information would be helpful from a management point of view.

### Strategic Plan/Policy Implications

The Principal Activities Plan describes its links to the Corporate Strategic Plan.

### Budget/Financial Implications

The Principal Activities Plan when adopted will form the basis of the budget for 2000/01. Any variances from the Principal Activities Plan must be detailed in the Budget document.

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

N/A

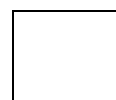
#### 611. (AG Item 14.4) (OCM1\_6\_2000) - FEES AND CHARGES - HENDERSON LANDFILL DISPOSAL AND SOUTH LAKE LEISURE CENTRE (4900; 8143) (KL)

##### RECOMMENDATION

That Council:

- (1) pursuant to Part X Division 4 of the City of Cockburn (Local Government Act) Local Laws, adopt the new schedule of rates for disposal of waste at the Henderson Landfill effective from 1 July 2000 as follows:

	\$
<u>Trailers</u>	
Per car, utility or trailer not exceeding 1 cu.m.	13.00
1.25 cu.m.	30.00
Exceeding 2.5 cu.m.	62.00
	<u>\$/Tonne</u>
<u>Trucks</u>	
Clean	4.00
Building/Demolition Waste (Off Liner)	12.00
Putrescible Waste (On Liner)	43.00
Tree Loppings	37.00
Sludge	47.00



Asbestos

The Henderson Landfill Site is only authorised by the Department of Environment to accept a maximum of **1 cubic metre** per load of asbestos waste. Applicable Tip Fee plus **\$50.00 burial** charge for commercial.

**When weighbridge is not in use for putrescible and non-putrescible solid waste**

	\$
Non-compactor truck	19.00/wheel
Compactor truck	37.00/wheel

**Rates for disposal of environmentally sensitive, extraordinary or Class II waste is by negotiation**

(2) adopt the following fees and charges relating to the South Lake Leisure Centre:

	\$
Creche/Youth Room Meetings	12.50/hr.

Recreation Room

• Day (until 5 pm)	16.50/hr
• Evening (5 pm close)	27.50/hr
• Bond	220.00

Sports Stadium

• Before 5 pm	25.00/hr
• After 5 pm	35.00/hr
• Weekends	25.00/hr
• Bond	550.00

Outdoor Courts (rate/hour/court)

• Off Peak (until 5 pm)	12.50
• Peak (5 pm close)	17.50
• Weekends	12.50

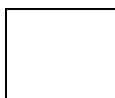
Equipment Hire

• Basketballs, Netballs, Volleyballs, Racquets, Kickboards	3.50
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Aerobics	6.00
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Swimming Lessons

• Adult Swimming Lessons (Up-front payment)	85.00
• (Weekly payment) + entry fee	100.00
• Student Swimming Lessons (Up-front payment)	85.00
• (Weekly payment) + entry fee	100.00



• Aquarobics	6.00
• Aerobic/Aquarobic Voucher x 10	54.00
• Aerobic/Aquarobic Voucher x 20	102.00
• Aerobic/Aquarobic Voucher x 30	144.00

#### General Entry Fees

• Adult Entry	3.40
• Adult Combined	5.50
• Student Entry	2.30
• Student Combined	3.80
• Pensioner Entry	2.20
• Spectator Entry	1.10
• School Entry	1.20

#### Vacation Swimming Vouchers

• One Child	30.00
• Two Children	49.00
• Three Children	68.00
• Four Children	87.00
• Five Children	104.00
• Six Children	120.00
• Adult Vouchers x 10	32.30
• Adult Vouchers x 20	61.20
• Adult Vouchers x 50	144.50
• Student Vouchers x 10	21.85
• Student Vouchers x 20	41.40
• Student Vouchers x 50	97.75
• Pensioner Vouchers x 10	20.90
• Pensioner Vouchers x 20	39.60
• Pensioner Vouchers x 50	93.50
• Junior Competition Team	20.00
• Adult Competition Team (morning)	25.00
• Adult Competition Team (evening)	32.00

#### Facilities

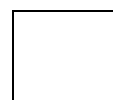
• Sauna/Spa	6.00
• Pensioner Sauna/Spa	5.00
• Gymnasium	6.00

#### Creche (per child)

Childcare facilities for parents using the Centre only. Qualified supervision with registered Mother Care Nurse. All toys and equipment etc. provided. Fully airconditioned creche with outdoor play area.

Hours: Mon. to Fri. 8.45 am - 3.00 pm  
P/Holidays 8.45 am to 12 noon

2.20/1½hr.  
0.60 extra child



<u>Programs</u>	
• Over 50's	5.00
• Senior Team Registration (AM)	90.00
• Senior Team Registration (PM)	90.00
• Junior Team Registration (per year)	7.00
<u>Club Membership</u>	
• Single member x 3 months	160.00
• Single member x 6 months	290.00
• Single member x 1 year	460.00
• Single member x 14 days	23.00
Joint member x 3 months	140.00
• Joint member x 6 months	220.00
• Joint member x 1 year	320.00
• VIP member x 3 months	210.00
• VIP member x 6 months	360.00
• VIP member x 1 year	580.00
• VIP member x 14 days	30.00
• Off Peak member x 3 months	120.00
• Off Peak member x 6 months	200.00
• Off Peak member x 1 year	320.00
• Off Peak member x 14 days	17.00
• Aerobic membership x 3 months	155.00
• Aerobic membership x 6 months	280.00
• Aerobic membership x 12 months	450.00
• Aerobic membership x 14 days	23.00

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

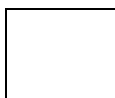
**CARRIED 3/0**

**Background**

In accordance with S6.19 of the Local Government Act, if a Local Government wishes to impose any fees and charges after the annual budget has been adopted it must, before introducing the fees and charges, give public notice of intention to do so, and the date which it is proposed the fees and charges will be imposed.

**Submission**

N/A





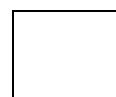
**Report**

With the introduction of the Goods and Services Tax on 1 July, some of the fees and charges which Council imposes will be subject to the GST.

Two of the more significant functions of Council's services which operate, and will be required to charge GST to customers are the South Lake Leisure Centre and the Henderson Disposal Site.

The following is a summary of the current and proposed charges for the Henderson Disposal Site:

	<u>Existing</u> \$	<u>Proposed</u> \$
<u>Trailers</u>		
Per car, utility or trailer not exceeding 1 cu.m.	12.00	13.00
1.25 cu.m.	27.00	30.00
Exceeding 2.5 cu.m.	56.00	62.00
<u>Min. per Load</u>	<u>\$/Tonne</u>	
<u>Existing</u> \$	<u>Existing</u> \$	<u>Proposed</u> \$
<u>Trucks</u>		
Clean	16.00	4.00
Building/Demolition Waste (Off Liner)	16.00	11.00
Putrescible Waste (On Liner)	46.00	39.00
Tree Loppings	46.00	33.00
Sludge	46.00	42.00
<u>Asbestos</u>		
The Henderson Landfill Site is only authorised by the Department of Environment to accept a maximum of <b>1 cu. metre</b> per load of asbestos waste. Applicable Tip Fee plus <b>\$50.00 burial</b> charge for commercial.		
<b><u>When weighbridge is not in use for putrescible and non-putrescible solid waste</u></b>		
	<u>Existing</u> \$	<u>Proposed</u> \$
Non-compactor truck	17.00/wheel	19.00/wheel
Compactor truck	34.00/wheel	37.00/wheel
<b><u>Rates for disposal of environmentally sensitive, extra-ordinary or Class II waste is by negotiation</u></b>		



The following are the existing and proposed fees and charges inclusive of GST for the South Lake Leisure Centre:

Description	Current Charge	Amended Charge 1/7/2000	Plus GST	Total Fees \$
<b>SOUTH LAKE LEISURE CENTRE</b>				
CRECHE/YOUTH ROOM MEETINGS	10.00	11.36	1.14	12.50/hr
RECREATION ROOM				
Day [until 5 pm]	15.00	15.00	1.50	16.50/hr
Evening [5 pm close]	25.00	25.00	2.50	27.50/hr
Bond	200.00	200.00	20.00	220.00
SPORTS STADIUM				
Before 5 pm	20.00	22.75	2.25	25.00/hr
After 5 pm	30.00	31.82	3.18	35.00/hr
Weekends	20.00	22.75	2.25	25.00/hr
Bond	500.00	500.00	50.00	550.00
OUTDOOR COURTS [rate/hour/court]				
Off Peak [until 5 pm]	10.00	11.36	1.14	12.50
Peak [5 pm close]	15.00	15.91	1.59	17.50
Weekends	10.00	11.36	1.14	12.50
EQUIPMENT HIRE				
Basketballs, Netballs, Volleyballs, Racquets, Kickboards	3.00	3.18	0.32	3.50
AEROBICS	5.00	5.45	0.55	6.00
SWIM LESSONS				
Adult Swimming Lessons [Up-front payment]	75.00	77.27	7.73	85.00
[Weekly payment] + entry fee	90.00	90.91	9.09	100.00
Student Swimming Lessons [Up-front payment]	75.00	77.27	7.73	85.00
[Weekly payment] + entry fee	90.00	90.91	9.09	100.00
AQUAROBICS	5.00	5.45	0.55	6.00
Aerobic/Aquarobic voucher x 10	45.00	49.09	4.91	54.00
Aerobic/Aquarobic voucher x 20	85.00	92.73	9.27	102.00
Aerobic/Aquarobic voucher x 30	120.00	130.91	13.09	144.00
GENERAL ENTRY FEES				
Adult Entry	3.00	3.09	0.31	3.40
Adult Combined	4.80	5.00	0.50	5.50
Student Entry	2.00	2.09	0.21	2.30
Student Combined	3.30	3.46	0.34	3.80
Pensioner Entry	1.90	2.00	0.20	2.20
Spectator Entry	1.00	1.00	0.10	1.10
School Entry	1.00	1.09	0.11	1.20
VACATION SWIMMING VOUCHERS				
One Child	26.00	27.27	2.73	30.00
Two Children	43.00	44.55	4.45	49.00
Three Children	59.50	61.37	6.18	68.00



Four Children	76.50	79.09	7.91	87.00
Five Children	90.00	94.55	9.45	104.00
Six Children	105.00	109.09	10.91	120.00
Adult Vouchers x 10	28.50	29.36	2.94	32.30
Adult Vouchers x 20	54.00	55.64	5.56	61.20
Adult Vouchers x 50	127.50	131.37	13.13	144.50
Student Vouchers x 10	19.00	19.87	1.98	21.85
Student Vouchers x 20	36.00	37.64	3.76	41.40
Student Vouchers x 50	85.00	88.87	8.88	97.75
Pensioner Vouchers x 10	18.05	19.00	1.90	20.90
Pensioner Vouchers x 20	34.20	36.00	3.60	39.60
Pensioner Vouchers x 50	80.75	85.00	8.50	93.50
Junior Competition Team	17.50	18.18	1.82	20.00
Adult Competition Team [morning]	21.00	22.73	2.27	25.00
Adult Competition Team [evening]	28.00	29.09	2.91	32.00
<b>FACILITIES</b>				
Sauna/Spa	5.00	5.46	0.54	6.00
Pensioner Sauna/Spa	4.00	4.50	0.50	5.00
Gymnasium	5.00	5.46	0.54	6.00
CRECHE [per child]	2.00	2.00	0.20	2.20/1½hr
Childcare facilities for parents using the South Lake Leisure Centre only. Qualified supervision with Registered Mother Care Nurse. All toys and equipment etc. Provided. Fully air-conditioned creche with outdoor play area.	0.50	0.55	0.05	0.60 extra child
<u>Hours</u>				
Monday to Friday - 8.45 am to 3.00 pm				
Public Holidays 8.45 am to 12 noon				
<b>PROGRAMS</b>				
Over 50's	4.40	4.55	0.45	5.00
Senior Team Registration [AM]	80.00	81.82	8.18	90.00
Senior Team Registration [PM]	80.00	81.82	8.18	90.00
Junior Team Registration	6.00 / player	6.36	0.64	7.00/player
<b>CLUB MEMBERSHIP</b>				
Single member x 3 months	140.00	145.46	14.54	160.00
Single member x 6 months	260.00	263.64	26.36	290.00
Single member x 1 year	377.50	418.19	41.81	460.00
Single member – 14 days	18.00	20.91	2.09	23.00
Joint member x 3 months	120.00	127.27	12.73	140.00
Joint member x 6 months	188.75	200.00	20.00	220.00
Joint member x 1 year	285.50	290.91	29.09	320.00
VIP member x 3 months	185.00	190.91	19.09	210.00
VIP member x 6 months	320.00	327.28	32.72	360.00
VIP member x 1 year	520.00	527.28	52.72	580.00
VIP member – 14 days	24.50	27.28	2.72	30.00
Off Peak member x 3 months	115.00	109.09	10.91	120.00
Off Peak member x 6 months	175.00	181.82	18.18	200.00
Off Peak member x 1 year	265.00	290.91	29.09	320.00
Off Peak member – 14 days	12.50	15.46	1.54	17.00
Aerobic membership x 3 months	135.00	140.91	14.09	155.00
Aerobic membership x 6 months	250.00	254.55	25.45	280.00
Aerobic membership x 12 months	395.00	409.10	40.90	450.00
Aerobic member – 14 days	19.00	20.91	2.09	23.00

With the adoption of Council's Budget not occurring until late July these two functions could lose up to \$22,000 if charges are not increased on 1 July to cover the 10% GST.

Accordingly, a notice will be published in the two local newspapers which circulate in the district, advising of the change in fee structure as from 1 July 2000.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

Potential loss of revenue to Henderson Disposal Site and South Lake Leisure Centre if fees are not increased at 1 July 2000.

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

N/A

**612. (AG Item 15.1) (OCM1\_6\_2000) - TEMPORARY CLOSURE OF DOLLIER ROAD (AS) (108889) (4206)**

**RECOMMENDATION**

That Council approve the temporary closure of Dollier Road to enable the road to be lowered to blend with development earthworks on the adjacent lot, subject to Conditions 1 to 10 contained in the report.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

The works proposed within Dollier Road will enable the road level and property levels to blend and enable future access. The developer of lots 12, 13 & 14 Solomon Road has proposed to undertake extensive earthworks within this land. Dollier Road is to the immediate north of the proposed development and provides an access point for properties.



**Submission**

N/A

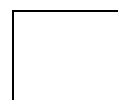
**Report**

The proposed works will enable the lowering and reconstruction of Dollier Road to current engineering standards. CSR Readymix utilise Dollier Road for their quarry works. They have agreed to the temporary closure through written correspondence to the City of Cockburn.

Under the Local Government Act Section 3.50 "Closure of Thoroughfares to Vehicles", Local Governments must authorise any road closure. The road closure proposed is for more than 4 weeks and requires Council approval.

Approval would be subject to the following conditions:

1. Adequate consultation must take place with affected landowners prior to any closure being effected, which will include details of the final road levels.
2. Traffic Management Plan to be prepared to relevant Australian Standards with the responsibility with the contractor, that all traffic safety is to these standards and maintained at these standards throughout the works.
3. All emergency services and service providers are to be advised of the proposed roadworks and road closure.
4. If the works extend into night hours or the works continue over a number of days, that suitable signage and flashing lights, again to relevant Australian Standards, are to be positioned at night. This equipment is to be tested to ensure it is in good working order and signs secured each day prior to leaving the site.
5. Details of the contractor and Project Manager to allow for daytime and after hours contact, are to be supplied.
6. Notices to be placed in the local printed media at least one (1) week prior to the works.
7. Signage to be erected on-site prior to the works proceeding, informing of the future road closure.
8. Receipt of written conditional approval from the City of Cockburn on the design and construction of Dollier Road.
9. Receipt of written agreement from adjacent landowners and service authorities that the works are accepted.



10. The works are to commence on the 24 June 2000 and conclude on the 22 September 2000 in line with this approval.

With the above conditions in place, the works can be carried out with minimal or no disruptions to existing traffic requirements.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

613. (AG Item 15.2) (OCM1\_6\_2000) - TENDER NO. 29/2000 - SUPPLY AND LAYING OF IN-SITU CONCRETE KERBING (4437) (IS) (ATTACH)

**RECOMMENDATION**

That Council accept the tender submitted by Kerb Qic & Co for Tender No. 29/2000 - Supply and Laying of In-situ Concrete Kerbing at the fixed rates indicated in their tender submission for the period 1<sup>st</sup> July 2000 to 30<sup>th</sup> June 2001.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

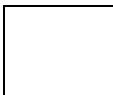
**CARRIED 3/0**

**Background**

Council has a program of calling tenders each year for the regular supply of materials and services to facilitate Council's roads and parks programs.

**Submission**

Tenders were called for the supply and laying of concrete kerbing for the next financial year. Four (4) tenders were received, the details of which are attached to the Agenda.



## Report

The tenders have been assessed under the following criteria, which were outlined in the tender documents:

### Weighting

1.	Price	35%
2.	Technical conformance	10%
3.	Demonstrated safety management	15%
4.	Delivery response performance	20%
5.	Quality endorsement	5%
6.	References	10%
7.	Insurance	5%

Tenderers were required to provide adequate information in their tender submission to allow for scoring each criteria. Where information was not supplied, the particular criteria was not scored.

The assessments under these criteria, as determined by Council's Roads Department, are as follows:

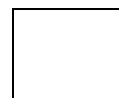
	<u>Assessment</u>	<u>Contract Estimate</u> <u>(1 Year)</u>
1. Kerb Qic & Company	93%	\$67,900 incl. GST
2. Works Statewide Kerbing	89%	\$67,200 incl. GST
3. Comkerb	59%	\$63,100 incl. GST
4. Kerbing West	46%	\$70,200 incl. GST

Whilst Kerb Qic & Co were not the lowest tenderer on price, through the tender evaluation criteria they came out on top. This was mainly due to the reports received from the references provided on their work quality and timeliness, compared to the current contractor (Comkerb) whose work quality, delivery times and responsiveness to the Council requests have been below par. Kerb Qic & Co have held the contract in the past and performed satisfactorily for Council. Consequently, their submission should be supported.

The total annual value of the tender is estimated to be about \$62,000 plus GST.

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

Construction and maintenance of roads is a principal objective of the Corporate Strategic Plan. Kerbing is an essential component of maintaining and constructing roads.



**Budget/Financial Implications**

The cost of kerbing is covered in the Budget allocations for road maintenance and construction. The recommended tenderer, Kerb Qic has not submitted the lowest price.

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

Nil.

**614. (AG Item 15.3) (OCM1\_6\_2000) - TENDER NO.36/2000 - SUPPLY AND LAYING OF HOT ASPHALT ROAD SURFACING (4437) (IS) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender submitted by:

- (1) Asphalt Surfaces for Supply and Laying of Hot Asphalt Road Surfacing for the 7mm, 10mm, 14mm, and Red Asphalts; and
- (2) Pioneer Road Services for the Supply Only – Ex Plant of Hot Asphalt Road Surfacing

for Tender No. 36/2000 - Supply and Laying of Hot Asphalt Road Surfacing at the fixed rates indicated in their tender submissions for the two year period 1<sup>st</sup> July 2000 to 30<sup>th</sup> June 2002.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) not accept any tenders; and
- (2) recall tenders for the supply and Laying of Hot Asphalt Road Surfacing for a period of 1 year.

**CARRIED 3/0**

**Explanation**

It was considered that a better price may be obtained by tendering for one year instead of the specified two years. The reason for this is that information from other local governments shows that lower prices have been obtained for the one year contract. This could be due to the fluctuating oil prices, and by re-tendering, comparisons can be made.





## Background

Council has a program of calling tenders each year for the regular supply of materials and services to facilitate Council's roads and parks programs.

## Submission

Tenders were called for the Supply and Laying of Hot Asphalt Road Surfacing for the next two (2) financial years. Seven (7) tenders were received, the details of which are attached to the Agenda.

## Report

There are basically two parts to this tender, being Supply and Lay, and Supply only – Ex Plant, and the tender lends itself to be split if it proves beneficial.

The tenders have been assessed under the following criteria, which were outlined in the tender documents:

### Weighting

1.	Price	35%
2.	Technical conformance	10%
3.	Demonstrated safety management	15%
4.	Delivery response performance	20%
5.	Quality endorsement	5%
6.	References	10%
7.	Insurance	5%

Tenderers were required to provide adequate information in their tender submission to allow for scoring each criteria. Where information was not supplied, the particular criteria was not scored.

The top assessments under these criteria, as determined by Council's Roads Department, are as follows:

<u>Supply &amp; Lay</u>	<u>Assessment</u>	<u>Contract Estimate (2 Years)</u>
1. Asphalt Surfaces	96%	\$1.89m plus GST
2. Boral Asphalt	91%	\$1.91m plus GST
3. Hot Mix	90%	\$2.11m plus GST
4. Asphaltech	77%	\$1.94m plus GST
5. CSR Emoleum	72%	\$1.77m



**Supply Ex-Plant**

1. Pioneer Road Services	95%	\$75,900 plus GST
2. Hot Mix	93%	\$79,300 plus GST
3. Boral Asphalt	89%	\$78,100 plus GST
4. Asphalt Surfaces	88%	\$79,300 plus GST
5. Asphaltech	75%	\$78,000 plus GST
6. CSR Emoelum	65%	\$72,500

The tender for the Supply and Laying of Hot Asphalt Road Surfacing as a result of the evaluation criteria being implemented, shows that Asphalt Surfaces is the most advantageous to Council. While Asphalt Surfaces do not hold the current contract for supply and laying of hot asphalt road surfacing, they have held the contract in the past, have performed satisfactorily and are considered to be a reputable company within the road construction and asphalt industry. Hence their tender in this instance should be supported. The estimated fixed rate contract value over 2 years is \$1.89 million plus GST.

The tender submitted by Pioneer Road Services for the Supply Only – Ex Plant of Asphalt, is the most advantageous to Council, particularly with the proximity of their Fremantle plant. Hence their tender in this instance should be supported. The estimated fixed rate contract value over 2 years is \$75,900 plus GST.

**Strategic Plan/Policy Implications**

Construction and maintenance of roads is a principal objective of the Corporate Strategic Plan. Asphalt is an essential component of maintaining and constructing roads.

**Budget/Financial Implications**

The cost of asphalt is covered in the Budget allocations for road maintenance and construction. The recommended tenderers, Asphalt Surfaces and Pioneer Road Services have not submitted the lowest prices.

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

Nil



**615. (AG Item 15.4) (OCM1\_6\_2000) - TENDER NO. 37/2000 - SUPPLY AND DELIVERY OF PRE-MIXED CONCRETE (4437) (IS) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender submitted by CSR Readymix for Tender No. 37/2000 - Supply and Delivery of Pre-mixed Concrete at a fixed rate excluding GST of \$106 per m<sup>3</sup> plus a surcharge of \$20 for each cubic metre less than 3.4m<sup>3</sup> for the period 1<sup>st</sup> July 2000 to 30<sup>th</sup> June 2002.

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Council has a program of calling tenders each year for the regular supply of materials and services to facilitate Council's roads and parks programs.

**Submission**

Tenders were called for the supply and delivery of pre-mixed concrete for the next two (2) financial years. Three (3) tenders were received, the details of which are attached to the Agenda.

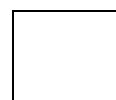
**Report**

The tenders have been assessed under the following criteria, which were outlined in the tender documents:

Weighting

1.	Price	35%
2.	Technical conformance	10%
3.	Demonstrated safety management	15%
4.	Delivery response performance	20%
5.	Quality endorsement	5%
6.	References	10%
7.	Insurance	5%

Tenderers were required to provide adequate information in their tender submission to allow for scoring each criteria. Where information was not supplied, the particular criteria was not scored.



The assessments under these criteria, as determined by Council's Roads Department, are as follows:

	<u>Assessment</u>	<u>Contract Estimate</u> <u>(2 Years)</u>
1. CSR Readymix	89%	\$515,000 plus GST
2. Pioneer Concrete	70%	\$505,000 plus GST
3. Boral Concrete	51%	\$524,000 plus GST

Although CSR Readymix have not tendered the lowest rates, their tender is the most advantageous to Council. They hold the current contract for pre-mixed concrete and are a reputable supplier of pre-mixed concrete. They have performed satisfactorily during the past year and it is considered that their tender should be supported.

The estimated fixed rate contract value over 2 years is \$515,000 plus GST.

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

One of the Corporate Strategic Plan objectives is that footpaths be constructed and maintained. Pre-mixed concrete is used in the construction and maintenance of footpaths.

### **Budget/Financial Implications**

The cost of pre-mixed concrete is contained within the footpath construction and maintenance budget allocations. The recommended tenderer, CSR Readymix has not submitted the lowest price.

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

Nil

## **616. (AG Item 16.1) (OCM1\_6\_2000) - COCKBURN BASKETBALL ASSOCIATION (8000) (RA)**

### **RECOMMENDATION**

That Council:

- (1) provide the sum of \$1,600 toward the cost of security screens for the Wally Hagan Stadium, with the funds to be drawn from A/C 580702; and
- (2) amend the Budget accordingly.

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



**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Council placed on its 1999/00 Budget, the sum of \$45,000 to go toward the replacement of a portion of the roof of the Wally Hagan Stadium of which \$39,505 was used.

**Submission**

The Association has written to Council requesting that a portion of the unexpended funds be utilised to place roller doors over several windows at the front of the building, as they are regularly broken by vandals. The cost of this work has been quoted at \$1,595.

**Report**

This Association has a long history of providing recreation activities to a great number of young people. They are generally quite self sufficient and this request does not seem unreasonable. The building is owned by Council and under the terms of the lease, the matter is quite clearly a Council responsibility.

The request is supported.

**Strategic Plan/Policy Implications**

Key Result Area - "Maintaining your Community Facilities" refers. Construct and maintain community buildings which are owned or managed by the Council.

**Budget/Financial Implications**

N/A

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

Nil



**617. (AG Item 16.2) (OCM1\_6\_2000) - TENDER NO. 16/2000 SOUTH LAKE SKATE PARK (8063) (AW)**

**RECOMMENDATION**

That Council:

- (1) Receive the tenders submitted by Skatetech for \$129,500 and Westplan Design for \$124,000;
- (2) Accept the tender submitted by Westplan Design for \$124,000; and
- (3) amend its Municipal Budget for 1999/00 as follows:

<u>Account No.</u>	<u>Description</u>	\$	\$
575759	South Lake Skate Facility	113,000	138,000
100015	Part Year Rating	290,402	305,402

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

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

In the 1999/2000 budget, the City of Cockburn allocated \$50,000 towards the construction of the South Lake skate facility. Additional funds were successfully sought from the Ministry of Sport and Recreation (\$38,000), Safer WA program (15,000) and the Office of Youth Affairs (\$10,000) totalling \$113,000 towards a skate facility within Cockburn. The consultation phase, completion of design drawings and tender specifications have cost \$4000, thus resulting in a total of \$109,000 to be used for the construction of the facility.

As the Commissioners have been previously advised, the City of Cockburn tendered the construction of the facility in March 2000, however the resultant tender submissions were significantly over budget predictions with the lowest tender equalling \$195,000.00. Under delegated authority, no tenders were accepted and the design and specifications of the South Lake Skate Facility were altered. The tender was re-advertised with tenders closing on the 25<sup>th</sup> May 2000. Two tenders were received with the lowest tender equalling \$124,000 from Westplan and \$129,500 from Skatetech.



**Submission**

N/A

**Report**

Due to the lowest tender exceeding the budget allocation of \$109,000 by \$15,000, the request for the additional monies is to be made which will include \$15,000 to cover the tender price and \$10,000 as a contingency sum. It should be noted that even with the additional monies requested, the City will be contributing approximately 50% of the total funds needed. External organisations and the community as a whole, have been very supportive of the Skate Facility, with the community (especially young people) being heavily involved in the concept and design phases.

The requested funds would alter the contribution towards construction of the contributing bodies as detailed below –

City of Cockburn	\$61,000	(49.2%)
Ministry of Sport and Recreation	\$38,000	(30.6%)
Safer WA Program	\$15,000	(12.1%)
Office of Youth Affairs	\$10,000	(8.1%)
<b>Total</b>	<b>\$124,000</b>	<b>(100%)</b>

As construction of the skate facility is to take place once GST is applicable, the tender cost will increase by 10%, however the City will be able to reclaim this money via input tax credits.

**Strategic Plan/Policy Implications**

Key Result Area "Facilitating the Needs of your Community" refers.

**Budget/Financial Implications**

Surplus income above Budget is available in Account No.100015 - Part Year Rating.

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

Nil



**618. (AG Item 16.3) (OCM1\_6\_2000) - LEASE - LAKESIDE BAPTIST CHURCH (1100097) (RA) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) subject to the agreement of the Western Australian Planning Commission, approves a variation to the sub Lease between the City of Cockburn, Western Australian Planning Commission and the Lakeside Baptist Church (Inc) for the use of the portion of land being Cockburn Sound Location 393 Volume 330 folio 137A as follows:
1. The Lakeside Baptist Church (INC) be required to construct any two of the following by 2011:
    - A multi purpose stadium/auditorium
    - A caretaker house
    - Short term dormitory accommodation for specialist coaching Clinics
    - Offices, training rooms and storage area rooms.
  2. Reduction of leased area north of the SEC Easement as per the attached Plan.
  3. The annual rental be adjusted proportional to the land sub leased as set out in the sub-lease terms.
  4. That the Lakeside Baptist Church pay all costs associated with the preparation and execution of the Deed of Variation and revaluation expenses; and
- (2) inform the Church that Council is not prepared to extend the option to renew the sub-lease beyond the present time of 2036.

**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) subject to the agreement of the Western Australian Planning Commission, approves a variation to the sub Lease between the City of Cockburn, Western Australian Planning Commission and the Lakeside Baptist Church (Inc) for the use of the portion of land being Cockburn Sound Location 393 Volume 330 folio 137A as follows:
1. The Lakeside Baptist Church (INC) be required to construct any two of the following by 2011:





- A multi purpose stadium/auditorium
  - A caretaker house
  - Short term dormitory accommodation for specialist coaching Clinics
  - Offices, training rooms and storage area rooms.
2. Reduction of leased area north of the Western Power Easement as per the attached Plan.
  3. The annual rental be adjusted proportional to the land sub leased as set out in the sub-lease terms.
  4. That the Lakeside Baptist Church pay all costs associated with the preparation and execution of the Deed of Variation and revaluation expenses; and
- (2) inform the Church that Council is not prepared to extend the option to renew the sub-lease beyond the present time of 2036; and
- (3) advise the Lakeside Baptist Church (Inc.) that whilst Council has regard to the concerns of the Church, it is not prepared to restrict the type of uses of the surplus reserve at this time.

**CARRIED 3/0**

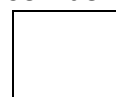
### **Explanation**

Cmr Smithson mentioned that even though the church has requested for the southern relinquished portion of the reserve not be assigned for a purpose that may compete with the facilities provided by the church or reflect against the community values promoted by the church, these values may change over time. She feels it would be good governance from Council's point of view to determine what is an appropriate use for that reserve and should not restrict itself in any way.

### **Background**

The City of Cockburn leases a portion of Cockburn Sound Location 393 of land comprised in certificate of title volume 330 folio 137A from the Western Australian Planning Commission. There is in turn, a sub lease between the Lakeside Baptist Church, City of Cockburn and the Western Australian Planning Commission, which has an option term which expires in 2036. Under the terms of the Deed of Agreement, the Lakeside Baptist Church was to have constructed:

- A multi purpose grassed area with car park by December 1998
- Additional indoor courts to the recreation Centre by December 1998



- Auditorium/office/main hall as determined within the term of the lease.

As these facilities have not been developed, the City administration approached the Church proposing that they relinquish the southern portion of the sub leased area and renegotiates their commitments for the construction of facilities (see attached diagram).

The Church has currently a substantial area of sub leased land set aside for recreational purposes. There will be an increasing demand for land of this type for other sporting organisations over time, which Council will be called upon to satisfy.

### **Submission**

The Lakeside Baptist Church has written to the Council agreeing to relinquish the southern portion of the sub leased area and proposing amongst other matters, a revised list of facilities development. These matters will be addressed in the report.

### **Report**

The church has proposed that they develop two of the following facilities with these selected projects to be undertaken as determined by their commercial viability and the availability of funds with the selected projects to be commenced by 2011:

- A multi purpose stadium/auditorium
- A caretakers house
- Short term dormitory accommodation for specialist coaching clinics
- Office, training rooms and storage rooms.

This proposal seems appropriate other than the church ought to be required to complete the selected projects by 2011. They have made commitments previously but other than the original commitment to construct the core facilities they have not been met. Furthermore the facilities need to have identified completion dates rather than a start date, as there is the potential to draw out over a very extended period the construction period and still comply with the terms of the sub lease.

The church has also requested that the sub lease be extended with an option of a further 25 years. The current sub lease to the year 2036 is already a considerable period and should not be extended. The church also requests that the southern relinquished portion not be assigned for a purpose that may compete with the facilities provided by the church or reflect against the community values promoted by the church. The land is vested for recreational purposes and hence it cannot be conceivable utilised for adverse community activities but another recreational activity could conceivable compete with the recreation activities of the church. This request should also be declined.



The church has requested that the lease fee be reduced proportional to the land relinquished. This is a reasonable request and should be supported.

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

Key result area "Facilitating the needs of your Community" refers.

### **Budget/Financial Implications**

Minor reduction in income derived from lease.

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

Nil

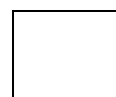
## **619. (AG Item 16.4) (OCM1\_6\_2000) - VARIATION TO DEED - INTERNATIONAL GOLF INVESTMENTS PTY LTD (1117347) (DMG)**

### **RECOMMENDATION**

That Council approves of a variation to Part 4 of the Lease Schedule in respect of the development of the facility as follows:-

#### **DEVELOPMENT SCHEDULE**

<b>Stage No.</b>	<b>Description</b>	<b>Completion Date</b>
1.	<u>Club House Facility</u> Unlicensed Refreshment/Food area Dimensions 20m x 8m Long Term Plans include:- <ul style="list-style-type: none"> <li>▪ Provision of a Pro-shop</li> <li>▪ Hawker Style Eatery</li> <li>▪ Limited Liquor Sales License</li> </ul>	30 September 2000
2.	<u>Practise Tee and Putting Green</u> Dimension 608m <sup>2</sup> - Tee 560m <sup>2</sup> - Green	30 September 2000
3.	<u>Sealed Car Park</u> 36 Bay Bitumen Surface	30 September 2000
4.	<u>Practise Fairway &amp; Short Game Areas</u> Pre Game Practise Areas Short Game Area 2100m <sup>2</sup> in Dimension	30 September 2000



- |    |   |              |
|----|---|--------------|
| 5. | <u>Pitch and Putt Course</u><br>To include water, bunkers, hollows and flora throughout the course, based on original Concept Plan. | 30 June 2001 |
| 6. | <u>Wonder Golf</u><br>Final Stage of the Facility to cater for those wishing to participate in an abbreviated form of Golf.         | 30 June 2001 |

**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

**Background**

At the Council Meeting conducted on 21 December 1999, Council approved the assignment of the Lease Agreement for the Murdoch Pines Golf and Recreation Centre, located in North Lake.

In addition, Council approved a revised development schedule which was able to be completed in a comparatively short term by the incoming sub-lessee.

However, for reasons beyond Council's control, the Head Lessor - Western Australian Planning Commission (WAPC), delayed the assignment process and consequently, the milestone dates for Stages 1-4 (inclusive) have expired.

WAPC has now advised that it is prepared to assign the Lease however, cannot approve the variation to the Development Schedule, with the nominated completion dates having already expired.

**Submission**

That the variation to the development schedule be extended to enable the works, as stipulated, to be carried out.

**Report**

Due to the unpredicted deferral of the sub-lease assignment, the sub-lessee has not been able to gain approvals to commence building the Club House facilities. These have been lodged with Council pending WAPC approval of the sub-lease assignment.



Now that WAPC has indicated its willingness to approve the assignment, it is necessary to amend the development schedule to enable a Lease Variation to also be approved.

The completion dates stipulated, are achievable within the sub-lessees timetable.

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

Key Result Area 4 "Facilitating the Needs of Your Community" refers.

### **Budget/Financial Implications**

N/A

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

Nil

## **620. (AG Item 18.1) (OCM1\_6\_2000) - PROPOSED AMENDMENT TO LOCAL GOVERNMENT ACT (CMR M JORGENSEN) (1103)**

### **RECOMMENDATION**

That Council advise the Minister for Local Government and the WA Municipal Association that the Local Government Act should be amended to ensure that Councillors without adverse findings against them as a result of an Inquiry, should not be disadvantaged by dismissal.

### **COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

**CARRIED 3/0**

### **Background**

By facsimile dated 7th June 2000, Cmr Jorgensen gave notice of his intention to the move the above motion at the June Council Meeting.

He had previously expressed the same view at the Special Meeting of Council held on the 23rd May 2000.



**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

**621. (AG Item 23.1) (OCM1\_6\_2000) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

MOVED Cmr Jorgensen SECONDED Cmr Smithson 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.

**CARRIED 3/0**

MEETING CLOSED 9.40 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: ...../...../.....

