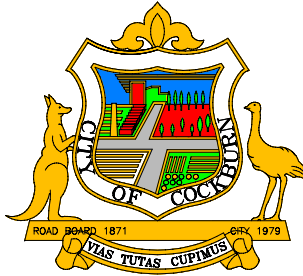


# **CITY OF COCKBURN**



## **ORDINARY COUNCIL**

## **AGENDA PAPER**

**FOR**

**THURSDAY, 10 MAY 2007**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 10 MAY 2007 AT 7:00 PM

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 10 MAY 2007 AT 7:00 PM

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**1. DECLARATION OF MEETING**

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

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

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

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

Nil

**5 (OCM 10/05/2007) - APOLOGIES AND LEAVE OF ABSENCE**

Deputy Mayor Richard Graham - Leave of Absence 7 to 27 May 2007

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

Nil

**7. PUBLIC QUESTION TIME**

Nil

**8. CONFIRMATION OF MINUTES**

**8.1 (OCM 10/05/2007) - ORDINARY COUNCIL MEETING - 12/04/2007**

**RECOMMENDATION**

That the Minutes of the Ordinary Council Meeting held on Thursday, 12 April 2007, be adopted as a true and accurate record.

**COUNCIL DECISION**

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

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

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

Nil

**12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

Nil

**13. COUNCIL MATTERS**

**13.1 (OCM 10/05/2007) - MINUTES OF AUDIT COMMITTEE MEETING - 22 MARCH 2007 (5017) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Audit Committee Meeting held on 22 March 2007, as attached to the Agenda and the recommendation contained therein be adopted.

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

**COUNCIL DECISION****Background**

A meeting of the Audit Committee was conducted on 22 March 2007.

**Submission**

To receive the Minutes of the Committee and adopt its recommendations.

**Report**

The committee considered the following reports:-

1. Delegation of Authority - It is necessary to review the authority for the committee to meet with the external auditor on an annual basis.
2. Internal Audit Services - The current contract for the provision of internal audit services expires at the end of 2006/07. The committee considered a scope of audit for the final year of the contract and tendering for the service in future.
3. External Audit Services - Similar to 2 above.
4. Australian Taxation Officer (ATO) Audit - Information item on the ATO audit of Council's Business Activity Statement for August 2006.
5. Main Roads WA Audit - Information item on the Main Roads Audit of Council's State Grants received for road projects during the 2004/05 and 2005/06 financial years.

**Strategic Plan/Policy Implications****Governance Excellence:**

- *To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way*

**Budget/Financial Implications**

As contained in Minutes

**Legal Implications**

As contained in Minutes

**Community Consultation**

N/A

**Attachment(s)**

Minutes of Audit Committee 22 March 2007.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil

**13.2 (OCM 10/05/2007) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING MINUTES - 22 MARCH 2007 (1054) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 22 March 2007, as attached to the Agenda, and adopts the recommendations contained therein.

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

**COUNCIL DECISION**

**Background**

The delegated Authorities, Policies and Position Statements Committee conducted a meeting on 22 March 2007. The minutes of



the meeting are required to be presented to Council and its recommendations considered by Council.

### **Submission**

The minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.

### **Report**

The Committee recommendations are now presented for consideration by council and if accepted, are endorsed as the decisions of Council. Any elected member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

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

#### ***Governance Excellence***

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

### **Budget/Financial Implications**

Committee Minutes refer.

### **Legal Implications**

Committee Minutes refer.

### **Community Consultation**

Committee Minutes refer.

### **Attachment(s)**

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 22 March 2007.

### **Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**13.3 (OCM 10/05/2007) - MINUTES OF STRATEGIC FINANCE AND INVESTMENTS COMMITTEE MEETING - 22 MARCH 2007 (5017) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Strategic Finance and Investments Committee Meeting held on 22 March 2007, as attached to the Agenda and the recommendations contained therein be adopted.

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

**COUNCIL DECISION**

**Background**

The meeting of the Strategic Finance and Investments Committee was conducted on 22 March 2007.

**Submission**

To receive the Minutes of the Committee and adopt its recommendations.

**Report**

The Committee considered items related to a number of land transactions connected with Council's Land Development Strategy.

**Strategic Plan/Policy Implications**

Strategic Plan Initiative Outcome refers:

***Governance Excellence:***

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

**Budget/Financial Implications**

The exact value of the land sales and the timing of each sale is unknown at this time.

**Legal Implications**

Sec. 3.59 of the Local Government Act, 1995, refers.

**Community Consultation**

N/A

**Attachment(s)**

Minutes of Strategic Finance and Investments Committee 22 March 2007.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES****14.1 (OCM 10/05/2007) - GROUPED (R-CODE) DWELLING - BOUNDARY SETBACK VARIATION - LOT 8 (NO. 8) STRODE AVENUE, HAMILTON HILL (2203495) (SDS) (ATTACH)****RECOMMENDATION**

That Council:

- (1) grant is approval for the erection of a second dwelling on Lot 8 (No. 8) Strode Avenue, Hamilton Hill, in accordance with the approved plans subject to the following conditions:-

**Standard Conditions:**

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plans.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. No wall, fence or landscaping greater than 0.75 metres in height measured from the ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a

2 metre truncation.

4. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
5. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7:00am Monday to Saturday and not at all on Sunday or Public Holidays.
6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
7. The parking bay/s, driveway/s and point of ingress and egress to be designed in accordance with the Australian Standard for off-street Carparking (AS/NZ2890.1) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the Council.

Special Conditions:

8. The surface finish of the boundary wall abutting the adjoining lots to be constructed to Council satisfaction.
9. Provision of additional two-hardstand bays as marked in red on the approved plans and to the satisfaction of the Council.

Footnotes:

1. The development is to comply with the requirements of the Building Code of Australia.
2. With regards to Condition No. 8, the surface finish of the boundary wall of the adjoining lot should be to the satisfaction of the adjoining landowners and to be completed as part of the building licence. In the event of a dispute, the boundary wall must be constructed with a clean or rendered finish to the satisfaction of Council.
3. With regards to Condition No. 8, the Owner is advised that any application to cover the proposed hardstand bays required as part of this approval will need to comply with the with the Acceptable Development standards of the Residential Design Codes of Western Australia (R-Codes)

relating to Set Back of Garage and Carports (notably clause 3.2.3 A3.5 of Part 3 of the R-Codes). An inappropriate intrusion into the Strode Avenue streetscape, which is characterised generally by open front setbacks, will not be supported.

- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval).

## COUNCIL DECISION

### Background

ZONING:	MRS:	Urban
	TPS3	Residential R-20
LAND USE:	Grouped (R-Code) Dwelling	
LOT SIZE:	1032m <sup>2</sup>	
USE CLASS:	P	

### Submission

The applicant seeks approval for the construction of a second dwelling with parapet walls proposed adjacent to the northern and eastern boundaries. The applicant has provided the following justification for the proposal: -

- To make more effective use of space of the property;
- The development will not restrict solar access to major openings and outdoor living areas of the adjoining property.

A copy of the site plan is contained in the agenda attachments.

### Report

The subject land is zoned Residential R-20 under the City of Cockburn Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application. The application has been referred to Council for determination as the proposal involves the construction of two boundary walls, one of which exceeds the acceptable development requirements of the *Residential Design Codes of WA* (R-Codes). The variation sought is also greater

than the 20% allowable standard which can be issued under delegation as specified in Council's Policy APD 10, and is therefore referred to Council for its determination.

Two (2) landowners were advised of the development application, and both provided support for the proposal.

### Residential Design Codes (R-Codes)

In determining the application, Council is to have regard to the performance criteria under Clause 3.3.2 P2 of the R-Codes, which states:

*"3.3.2 P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:*

- Make effective use of space; or*
- Enhance privacy; or*
- Otherwise enhance the amenity of the development; and*
- Not have any significant adverse effect on the amenity of the adjoining property; and*
- Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted".*

The proposal complies with the above performance criteria. The second dwelling will not have a significant impact on the amenity of the adjoining properties. Further, the adjoining property owners (northern and eastern sides) have provided consent to the proposal.

It should also be noted that subject to Clause 3.5.1 A1 ii of the R-Codes, two (2) car parking bays are required for each grouped dwelling, with at least one provided for the exclusive use of each dwelling. Given the location of the existing brick garage within proximity to the proposed dwelling, an additional 2 hardstand bays have been proposed adjacent to the original dwelling. Bearing these points in mind, it is recommended that Council support the application.

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

#### ***Demographic Planning***

- To ensure development will enhance the levels of amenity currently enjoyed by the community.*

The Planning Policies which apply to this item are:-

APD8	Strata Titles
APD9	Retaining Walls
APD10	Discretion to Modify Development Standards
APD17	Standard Development Conditions and Footnotes

**Budget/Financial Implications**

N/A

**Legal Implications**

Town Planning Scheme No 3  
 Residential Design Codes 2002  
 Planning and Development Act 2005  
 State Administrative Tribunal Regulations

**Community Consultation**

Affected adjoining property owners' comment was received as part of the application. At the close of the submission two submissions had been received.

**Attachment(s)**

1. Location Plan – Indicating location of Submissions
2. Site Plan

**Advice to Proponent(s)/Submissioners**

The proponent and submissioner(s) have been advised that this matter is to be considered at the May 2007 Council Meeting.

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

N/A

**14.2 (OCM 10/05/2007) - COMMERCIAL VEHICLE PARKING - LOT 37 (NO.39) BEACH ROAD, COOGEE - OWNER: GREGORY AND JANINE PITMAN - APPLICANT: GEORGE PEACH (3309402) (ES) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) refuse to grant its approval to the proposed commercial vehicle parking for the following reasons:-
  1. the proposal is contrary to the protection of the residential amenity of the location by virtue of:
    - (a) the hours of operation of the commercial vehicles;
    - (b) the noise and disturbance associated with the use of the vehicles;
    - (c) the visual appearance of the vehicles in what is a

- typical single residential area;
2. the proposal is contrary to the orderly and proper planning of the locality by virtue of:
    - (a) being different to the type of development typically anticipated in residential areas taking into account the need to protect residential amenity;
    - (b) concerns regarding the potential for traffic conflict in the locality given the nature and size of vehicles proposed as part of the development;
  3. the relevant concerns raised by surrounding property owners.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal;
  - (3) advise the applicant and submissioners accordingly in respect of Council’s decision; and
  - (4) advise the applicant that the most appropriate location for the storage and use of the commercial vehicles is within a non-residential zone i.e. a commercial or industrial zone.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3	Residential R20
LAND USE:	Residential	
LOT SIZE:	1227m <sup>2</sup>	
USE CLASS:	Single (R-Codes) House	

The subject land is situated on the southern side of Beach Road in Coogee and is occupied by a single storey residence. The site is flanked to the east and west by single dwellings. Single dwellings are also present opposite the site.

A recent inspection of the site revealed the parking of two (2) large passenger buses at the front of the property.



## Submission

This application seeks planning approval for the parking of the two (2) passenger buses (commercial vehicles) at the front of the site. The application is described as follows:

- One (1) bus will be parked on the site seven (7). This bus will leave at 5am Monday to Saturday and return at 6am. The bus will remain on the site during the day before it leaves again at 4pm and returns at 6pm.
- A second bus will be parked on the site from 6am – 4pm Monday to Friday and from 6am – 12 noon on Saturdays. This bus will be kept elsewhere during the night hence will arrive on site at 6am and leave at 4pm Monday to Saturday.
- The buses will be located in the driveway in front of the dwelling.

The primary use of the buses is to transport workers living in local suburbs to and from Austal ships.

## Report

The subject land is zoned Residential R20 under the City of Cockburn Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

In assessing and determining applications for development within residentially zoned areas, one of Council's principle objectives is the protection of the amenity of residents living within. The proposed development is considered contrary to the protection of residential amenity in the subject location, and is not considered to comply with the standards and provisions of the City's Town Planning Scheme No 3, particularly Clauses 5.8.4(v) and 10.2 that addresses matters to be considered by council.

## Amenity

Clause 5.8.4(v) of the Scheme states that the parking of commercial vehicles in a residential zone may be permitted if it is not likely to adversely affect the amenity of the surrounding land. In the case of the subject proposal, however, this is not the case. The matter of the commercial parking was drawn to Council's attention by an aggrieved property owner. Additionally, adjoining property owners have been consulted in respect of the application. In response to the consultation, three (3) submissions objecting to the proposal have been received (one (1) not objecting to the application was also received). The submissions raise the following concerns:

- Noise distraction, particularly in the early hours of the morning
- Visual amenity

- Exhaust fumes which are generated by the vehicles
- Concern that the operators of the buses do not reside at the site

In addition to the above, Council's Planning Section has the following additional concerns. An increase in vehicle movements around the site will also result from the proposal. This not only adds to noise disturbance, but also raises safety concerns in regards to traffic in the local area. Furthermore, it is considered that the proposed vehicle parking will have a negative impact on the visual amenity of the local area. The proposal is not consistent with the appearance of the surrounding neighbourhood, which primarily consists of single residential dwellings.

#### Orderly & Proper Planning

Council in determining development applications is responsible for considering the orderly and proper planning of a locality. The site and surrounding area is zoned Residential R20 under the Town Planning Scheme and, therefore, should be used primarily for residential purposes and uses which are compatible with residential areas. The parking and associated vehicle movement of two commercial buses to and from the subject site is not considered appropriate or necessary in this zone, a position confirmed by the valid concerns raised by residents in the vicinity.

#### Recommendation

It is recommended that Council refuse the application on the basis that the proposal is contrary to both:

- The protection of the amenity of the residential area within which the subject land is located;
- The orderly and proper planning of the locality as required to be considered by Council.

Resolving to refuse the application also takes into account the relevant submissions received by Council in respect of the application.

It is also recommended that Council resolve to advise the applicant that the most appropriate location for the storage and use of the commercial vehicles is within a non-residential zone i.e. a commercial or industrial zone.

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

##### ***Demographic Planning***

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

- *To ensure development will enhance the levels of amenity currently enjoyed by the community.*

**Budget/Financial Implications**

N/A

**Legal Implications**

Town Planning Scheme No 3  
Planning and Development Act 2005  
State Administrative Tribunal Regulations

**Community Consultation**

9 (nine) surrounding owners were consulted regarding the proposal. Three (3) submissions were received objecting to the proposal and one (1) submission not objecting was received.

**Attachment(s)**

Site Plan

**Advice to Proponent(s)/Submissioners**

The proponent and submissioner(s) have been advised that this matter is to be considered at the May 2007 Council Meeting.

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

N/A

**14.3 (OCM 10/05/2007) - SINGLE HOUSE CODES APPROVAL - 3 FALKE COURT, ATWELL - OWNER: HUGH AND DEBRA BURNS - APPLICANT: OUTDOOR CENTRE HOLDINGS PTY LTD (5515873) (BAH) (ATTACH)**

**RECOMMENDATION**

That Council grant its approval to the proposed Single (R-Code) House Extensions at Lot 108 (No.3) Falke Court, Atwell in accordance with the approved plans subject to the following conditions:-

STANDARD CONDITIONS

1. Development can only be undertaken in accordance with the terms of the application as approved herein and any approved plans.
2. Nothing in the approval or these conditions shall excuse

	compliance with all relevant written laws in the commencement and carrying out of the development.
3.	No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless such wall or fence is constructed with a 2 metre truncation.
4.	All stormwater being contained and disposed of on-site to the satisfaction of the Council.
5.	No activities relating to this approval causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
<b><u>FOOTNOTES</u></b>	
1.	The development is to comply with the requirements of the Building Code of Australia.
2.	Issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval).

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3	R20
LAND USE:	Residential	
LOT SIZE:	485m <sup>2</sup>	
USE CLASS:	"P"	

**Submission**

The applicant proposes an extension to an existing Single (R-Code) House on the subject land. The extension proposes a 6m x 3m room addition with a two windows facing the neighbouring property. This wall with major openings is set back 1m from the boundary, the R-Codes require a setback of 1.5m.

## Report

The subject land is zoned R20 under the City of Cockburn Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

The proposed development complies with the standards and provisions of the City's Town Planning Scheme No.3 and the Residential Design Codes with the exception of the following:-

- Table 2b- "Boundary Setbacks- Walls with major openings; Walls 6m long & under 3.5m in height must be setback 1.5m from the side boundary."

The applicant seeks a variation to the above clause by proposing a continued side setback of 1m.

The applicant has received the endorsement of the neighbour adjoining the reduced setback. They have signed a consent form indicating they have no objection to the proposal.

This proposal is a minor matter and has the support of Planning.

It is recommended therefore that Council support the application on the basis that the reduced setback has been supported by the adjoining neighbour and is considered a minor variation, which will not have any detrimental planning outcomes

## Strategic Plan/Policy Implications

### ***Demographic Planning***

- *To ensure development will enhance the levels of amenity currently enjoyed by the community.*

The Planning Policies which apply to this item are:-

APD17      Standard Development Conditions and Footnotes  
APD32      Residential Design Codes

## Budget/Financial Implications

N/A

## Legal Implications

Town Planning Scheme No 3  
Residential Design Codes 2002  
Planning and Development Act 2005  
State Administrative Tribunal Regulations

### **Community Consultation**

The applicant has received the endorsement of the neighbour adjoining the reduced setback. They have signed a consent form indicating they have no objection to the proposal.

### **Attachment(s)**

- (1) Location Plan
- (2) Site Plan (with neighbours signed approval) & elevation plan.

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the May 2007 Council Meeting.

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

N/A

#### **14.4 (OCM 10/05/2007) - DOG GROOMING PARLOUR - 4 SILKPOD GARDENS, SOUTH LAKE - OWNER/APPLICANT: ANNA ALLEGRETTA (5113730) (LP) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) grant its approval to operate a Home Business – Dog Grooming on the property at No 4 (Lot 92) Silkpod Gardens, South Lake in accordance with the approved plan subject to the following conditions:-
  1. Development can only be undertaken in accordance with the details of the application as approved herein and any approved plans.
  2. The development complying with the Home Business provisions and definition set out in the Town Planning Scheme.
  3. All materials and/or equipment used in relation to the Home Business shall be stored within the residence.
  4. Nothing in the approval or these conditions shall excuse compliance with all other relevant written laws in the commencement and carrying out of the development.
  5. No activities causing noise and/or inconvenience to

neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.

6. The hours of operation are limited to 10.00am to 2.00 pm Thursdays, Fridays and Saturdays in accordance with the applicant's submission.
7. No retail or wholesale sales being permitted from the premises.
8. A washbasin used for dog washing is to be provided with a drain filter, which is to be used at all times.
9. A maximum of 3 clients per day in accordance with the applicant's submission with an interval of at least 10 minutes between clients.
10. Vehicle parking associated with the running of the home business being accommodated on the applicant's property and the crossover only.
11. The Home Business Approval may be withdrawn by the Council upon receipt of substantial complaints.
12. Signage associated with the Home Business being limited to one sign located behind the property boundary and not exceeding 0.2m<sup>2</sup>

#### FOOTNOTES

1. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, Council's Planning Services should be consulted.
  2. A new application for Planning Approval is required if any change to the nature of the business or operating hours is proposed.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval (inclusive of MRS Form 2 Notice of Approval); and
- (3) advise the applicant and the submitters of Council's decision accordingly.

**COUNCIL DECISION****Background**

ZONING:	MRS:	Urban
	TPS3	Residential R20
LAND USE:	Residential	
LOT SIZE:	703 m <sup>2</sup>	
USE CLASS:	"A"	

The subject property is situated near the corner of Silkpod Gardens and Bolderwood Drive in South Lake.

There is a single-storey residence on the subject lot, with a double carport fronting Silkpod Gardens.

**Submission**

The applicant has provided the following justification in support of the proposal which has been summarised accordingly:-

- Proposed opening hours are: from 10:00 am to 2:00 pm on Thursdays, Fridays and Saturdays;
- Expected number of clients per day – 3 clients;
- Number of Employees – no employees, business operated solely by the applicant;
- Only one client at a time;
- Signage – one small sign behind the property boundary 0.4m X 0.3m;
- A sink located in the front carport will be used for washing the clients' dogs. A sink filter will be used to ensure that dogs' hair is not washed away into the domestic drain;
- Most of the prospective clients live locally so they can walk rather than drive, which would reduce the number of cars coming to the house.

A copy of the applicant's full submission should be read in conjunction with this report and is contained in the agenda attachments.

**Report**

The subject land is zoned Residential under the City of Cockburn Town Planning Scheme No 3 with a density coding of R20.



The proposed use – Home Business is an ‘A’ use in the Residential Zone, which means that the use is not permitted unless the local government has exercised its discretion and has granted planning approval after giving special notice in accordance with Clause 9.4. (TPS 3 Clause 4.3.3)

Notice of the proposed Home Business was served on the nearby residents in accordance with Clause 9.4.3 (a) of the TPS 3. Two submissions were received during the advertising period, one of which was an objection. Summary of the objection is detailed in the Community Consultation section of this Report.

TPS 3 provides the following definition of a Home Business:

*Means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –*

- *Does not employ more than 2 people not members of the occupier’s household;*
- *Will not cause injury to or adversely affect the amenity of the neighbourhood;*
- *Does not occupy an area greater than 50 square metres;*
- *Does not involve the retail sale, display or hire of goods of any nature;*
- *In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
- *Does not involve the use of an essential service of greater capacity than normally required in the zone.*

It is considered that the proposed use is in accordance with the above Home Business definition for the following reasons:

- The proposed Dog Grooming business will be carried out solely by the applicant. The applicant stated that no staff would be employed.
- Due to the very small scale of the business it is considered that the amenity of the residential area would not be affected.
- It is proposed to use a small bench located in the double carport for dog grooming (size of the carport – 27.5m<sup>2</sup>) and an outdoor washbasin adjacent to the house laundry for dog washing. The total area used for the business would not exceed 50.0 m<sup>2</sup>.
- The applicant is not proposing to carry out any retail sales of goods from the premises;
- The proposed business does not require use of a commercial vehicle. Also as the proposed number of clients is only three per day with only one client being on the premises at a time it is

considered that the carrying out of the proposed business would not result in traffic difficulties in the neighbourhood.

The proposal does not require the use of an essential service of greater capacity than normally required in the residential zone.

The main concerns expressed in the objection from one of the neighbours were noise and increased vehicle movement in the locality. It is considered that the issues raised in the objection were addressed by the proponent in the letter submitted with the application detailing the nature of the proposed business.

The proponent's front driveway can easily accommodate parking of client's vehicles, considering that it is proposed to only have one client at any given time. A condition of approval limiting the number of clients to three per day and only one client on the premises at any given time is recommended to be included as part of the conditional approval to ensure that the number of cars coming to the subject property is controlled.

It is also considered that due to the very small scale of the proposed business, it would not contribute to unacceptable noise levels in the locality so as to negatively impact on the amenity of the residential area.

#### Health Issues

The proposal was referred to the Council's Environmental Health Officer for comment and the following points were raised:

- Disposal of animal faeces;
- Dogs' hair washing away into the domestic drain.

The applicant provided the following response to the above issues:

- Animal faeces will be disposed off in the domestic green bin;
- A washbasin filter would be used when washing dogs to ensure that the dogs' hair doesn't enter into the domestic drain.

The above applicant's response to the health issues raised was considered acceptable.

#### Conclusion/Recommendation

That Council conditionally approve the application for a Home Business – Dog Grooming on Lot 92 (No 4) Silkpod Gardens, South Lake.

The proposal is recommended to be supported for the following reasons:

- The proposed use is in accordance with the definition of a Home Business in the TPS 3;
- The proposal was advertised in accordance with the requirements of the Scheme;
- The objection received was considered and adequately addressed.
- The proposal is in line with the general intent and purpose of the residential zone and does not negatively affect the orderly and proper planning of the locality.

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

#### ***Demographic Planning***

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

The Planning Policies which apply to this item are:-

APD17      Standard Development Conditions and Footnotes

### **Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect of any of the conditions proposed to be imposed on approval, there may be a cost to be borne by Council.

### **Legal Implications**

Town Planning Scheme No 3  
Planning and Development Act 2005

### **Community Consultation**

Adjoining owners were consulted regarding the proposal. There were two submissions received by Council one of which was an objection. The main points of the objection are detailed below:

- *Noise and pollution will damage the ambience of the residential area,*
- *I maintain my verge at great expense, which will potentially be used for parking of vehicles coming to the applicant's property,*
- *Business areas are in close proximity and available for such purpose.*

### **Attachment(s)**

(1) Location Plan

(2) Site plan

**Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 May 2007 Council Meeting.

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

Nil.

**14.5 (OCM 10/05/2007) - CHANGE OF USE (CHILDCARE CENTRE) - NO.4(LOT 67) HOMESTEAD AVENUE, BIBRA LAKE - OWNER/APPLICANT: WILLY ERWIN MASTURI (1108028) (AH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant its approval to the change of use application from Pre-Primary School to Child Care Centre on No. 4 (Lot 67) Homestead Avenue, Bibra Lake in accordance with the approved plan subject to the following conditions:
  1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
  2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
  3. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
  4. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
  5. 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. The application (including detailed plans) and appropriate fee for a sign licence must be submitted to the Council prior to the erection of any signage on the site/building.

6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
7. Vehicular access to and from the site shall be restricted to that shown on the plan approved by the Council.
8. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for off-street Carparking (AS/NZ2890.1) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the Council.
9. Carbay grades are not to exceed 6% and disabled carbays are to have a maximum grade 2.5%.
10. Refuse bins shall be provided adequate to service the development and the bins are to be screened from view to the satisfaction of the Council before the development is occupied or used.
11. The street verge adjacent to the Lot(s) being grassed or otherwise provided in accordance with the approved plans and be established prior to the occupation of the building; and thereafter maintained to the Council's satisfaction.
12. The development is to comply with the Environmental Protection Act 1986 which contains penalties where noise limits exceed the prescribed by the Environmental Protection (Noise) Regulations 1997.

#### FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. The proposal conforming to the Community Services (Child Care) Regulations 1988, and the requirements of the Department for Community Development.
3. The applicant is advised approval is to be obtained from the Commonwealth Department of Family and Community Services.
4. The operations must comply with the requirements of the Environmental Protection Act 1986, and the relevant

- regulations in respect of noise emissions.
5. Copy of the licence from the Child Care Services Board to be provided to Council.
  6. Family Day Care Services caring for children of age ('school age family day care') must comply with the Community Services (Outside School Hours Care) Regulations 2002.
- (2) issue a Schedule 9 Notice of Determination of Application for Planning Approval – Approval (inclusive of MRS Form 2 of Approval); and
  - (3) advise applicant of Council's decision accordingly.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	Child Care Centre	
LOT SIZE:	2101m <sup>2</sup>	
USE CLASS:	Child Care Premises - 'A'	

The land subject to this application is situated on the south east corner of Hope Road and Homestead Avenue in Bibra Lake. Council has considered the following applications on the site:

- July 1986 – Proposed pre-school/Child Day Care Centre conditionally approved by Town Planning Committee;
- June 1990 – Additions to existing pre-school conditionally approved by Council at Ordinary Meeting;
- July 1993 – Enclosure of existing verandah determined at Planning and Building Committee, approved 26/1/93;
- December 2000 – Classroom addition approved at Ordinary Meeting;
- May 2003 – Extensions to school (Classroom, Library, Administration Area & Storage), determined by Council at Ordinary Meeting on 20 May 2003;

- August 2003 – Temporary use of transportable classroom in place of building the extensions approved by Council in May.

At present the building is vacant and does not appear to have been maintained in recent times. The previous pre-primary school has relocated across the road and the premises are awaiting new tenants.

### **Submission**

Application has been made to use the existing Primary School on the subject site for the purpose of a child-care centre.

The applicant has provided the following justification in support of the proposal which has been summarised accordingly:-

- Premises to be used for pre-school and primary school age children Licensed for up to 68 patrons at any one time;
- The building has been specifically constructed with amenities and facilities already suited to accommodate pre-school and primary school age children;
- A formal parking area is already established on site to accommodate pick-up and drop-off traffic;
- The proposal will operate Monday to Friday 7am – 6pm; and
- Noise management is to be addressed by controlling the number of children that will be outside at any one time.

A copy of the applicant's full submission should be read in conjunction with this report and is contained in the agenda attachments.

The proposed Child Care Centre is licensed for a reduced number of students compared to the previous pre-primary school that was on-site. This will reduce the impact of parking, noise and traffic management on the surrounding area and the existing parking bays on site will provide for adequate pick-up and drop-off traffic management.

### **Report**

The subject land is zoned Residential under the City of Cockburn Town Planning Scheme No 3. Council has the discretion to either approve (with or without conditions) or to refuse the application.

A Child Care Centre is listed as an 'A' use in the Land Use Table, requiring that the application be advertised in accordance with Clause 9.3 before a determination can be made.

The proposal was advertised to the surrounding residents and a sign placed on site for a period of two weeks. During this time two letters of support and two of objection were received.

The two objectors stated their main concerns as parking, noise and child safety, while also citing previous Council decisions to not allow extensions to the Pre-school and the cap of 100 students as reasons for objecting.

As the proposed child care centre is only proposing to cater for 68 children at any one time there will be a significant reduction in the number of children as compared with its previous pre-school use (which had a cap of 100 students). This will result in a reduction in the number of vehicles accessing the site dropping off and collecting children. It should be noted that there are already existing parking facilities in place which will serve the proposed child care centre in controlling access and parking. In addition the site is located on the corner of Hope Road and Homestead Avenue, which will also provide alternative drop-off and pick-up points, dispersing the impact of traffic movements on the surrounding area.

The reduction in the number of children will also result in a reduction in the amount of noise generated. The operator has also advised their intention to regulate the type of outdoor activities and monitoring the number of children taking part in any outdoor activities, in order to control the impact of noise on the adjoining neighbours.

The use of the building and surrounding land for Child Care Centre is supported based on the application complying with the City of Cockburn's Town Planning Scheme No. 3. The operation of a Child Care Centre in close proximity to the Primary School improves land use compatibility and will ensure convenient facilities are provided for the surrounding community that make use of these services.

The property is only abutted by two residential properties, a Council Reserve is located to the West while to the North the new school and further reserved land is located. Due to the relatively low density of residential development in and around the proposed Child Care Centre the impacts of noise and traffic are not considered detrimental to the surrounding area. The property is also located on the corner of Hope Road and Homestead Loop, which provides good access and vehicular circulation to the Centre. For these reasons traffic management should not pose major hindrances to nearby residences.

In addition to the above, the number of Child Care Centres able to take further student numbers is becoming increasingly difficult, and this important community service is a demand, which is not been adequately met by current facilities. This Centre will provide an important service to the surrounding community and will complement the adjoining school across the road.



## Recommendation

The establishment of a Child Care Centre at No. 4 Homestead Avenue, Bibra Lake is considered a positive from a planning and community perspective. The facility will add to the level of local services currently offered in the area and will complement the operation of the adjoining Primary School.

The operators of the Child Care Centre have considered the impacts of traffic and noise on the surrounding residents and will be implementing operational strategies to control both factors. The use of the existing car-park and a drop-off and pick-up system will enable a free flow of traffic around the site and noise management will be controlled through close monitoring of the children's activities.

The lack of Child Care infrastructure in the community emphasises the importance of such facilities, for this reason and those listed above it is therefore recommended that Council support the application, delegating authority to Planning Services to conditionally approve the application.

## **Strategic Plan/Policy Implications**

### ***Demographic Planning***

- *To ensure development will enhance the levels of amenity currently enjoyed by the community.*

### ***Lifestyle and Aspiration Achievement***

- *To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.*

The Planning Policies which apply to this item are:-

APD16B	Standard Strata Conditions and Reasons for Refusal
APD17	Standard Development Conditions and Footnotes
APD33	Town Planning Scheme No. 3 Provisions
APD40	Response To Appeals

## **Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect to any of the conditions proposed to be imposed on the approval, there may be a cost to be borne by Council.

## **Legal Implications**

Town Planning Scheme No 3  
Planning and Development Act 2005  
State Administrative Tribunal Regulations

## **Community Consultation**

Public consultation for the proposal included a sign was placed on site and letters sent to surrounding landowners. As a result of the advertising two letters of support and two letters of objection were received.

One of the objections almost exclusively repeated the Council minutes in respect to the previous pre-primary school applications. The issues raised generally relate to a different type of use and have no bearing on the current application. The relevant concerns raised however include increased traffic movements along Hope Road and Homestead Avenue and noise concerns. The other letter of objection outlines concerns relating to parking, children safety (whilst crossing roads) and noise. Other issues raised relate to complaints regarding the construction of the new primary school and are not relevant to this application.

The concerns raised in the submissions are dealt with in the body of the report.

## **Attachment(s)**

1. Location Plan – Marked where Submissions of Objection and Support have been received.
2. Site Plan and Floor Plan.

## **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 May 2007 Council Meeting.

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

N/A

## 15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

### 15.1 (OCM 10/05/2007) - LIST OF CREDITORS PAID - MARCH 2007 (5605) (KL) (ATTACH)

#### RECOMMENDATION

That Council receive the List of Creditors Paid for March 2007, as attached to the Agenda.

#### COUNCIL DECISION

#### Background

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

#### Submission

N/A

#### Report

N/A

#### Strategic Plan/Policy Implications

#### ***Governance Excellence***

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

#### Budget/Financial Implications

N/A

#### Legal Implications

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid - March 2007.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**15.2 (OCM 10/05/2007) - STATEMENT OF FINANCIAL ACTIVITY - MARCH 2007 (5505) (NM) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated reports for the period ended 31 March 2007, as attached to the Minutes.

**COUNCIL DECISION**

**Background**

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

Regulation 34(2) requires the Statement of Financial Activity to be accompanied by documents containing:–

- (a) details of the composition of the closing net current assets (less restricted and committed assets),
- (b) explanations for each material variance identified between YTD budgets and actuals; and

- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents are to be presented to the Council.

### **Submission**

N/A

### **Report**

Attached to the Agenda is the Statement of Financial Activity for March 2007.

Note 1 shows how much capital grants and contributions are contained within the reported operating revenue.

Note 2 provides a reconciliation of Council's net current assets (adjusted for restricted assets and cash backed leave provisions). This provides a financial measure of Council's working capital and an indication of its liquid financial health.

Also provided are Reserve Fund and Restricted Funds Analysis Statements. These assist to substantiate the calculation of Council's net current assets position.

The Reserve Fund Statement reports the budget and actual balances for Council's cash backed reserves, whilst the Restricted Funds Analysis summarises bonds, deposits and infrastructure contributions held by Council. The funds reported in these statements are deemed restricted in accordance with Australian Accounting Standard AAS27.

### Material Variance Threshold

For the purpose of identifying material variances in Statements of Financial Activity, Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality.

For the 2005/06 financial year, Council had adopted a materiality threshold of 10% or \$10,000, whichever is the greater.

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

#### ***Governance Excellence***

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

**Budget/Financial Implications**

Where variances are of a permanent nature, these will be noted and addressed at the mid-year budget review.

**Legal Implications**

Section 6.4 of the Local Government Act, 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996, refer.

**Community Consultation**

N/A

**Attachment(s)**

Statement of Financial Activity - March 2007.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (OCM 10/05/2007) - SMRC PROJECT PARTICIPATION AGREEMENT - REGIONAL COMMUNITY GREENHOUSE PROJECT (4904) (TW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) endorses the Regional Community Greenhouse Project Action Plan “Forging a Re-Newed Regional Partnership to Tackle Global Warming”, as prepared by the Southern Metropolitan Regional Council in consultation with the Regional Cities for Climate Protection (CCP) Officers Committee; and
- (2) note that funding is for a period of 5 years with the possibility of an extension subject to the agreement of the participants.

**COUNCIL DECISION****Background**

Council is a part of Cities for Climate Protection (CCP) Australia, which is a program run by International Councils for Local Environmental Initiatives - Local Governments for Sustainability - Australia/New Zealand (ICLEI-A/NZ), which works with local governments to manage the greenhouse emissions that cause global warming. Through the CCP milestone framework, councils analyse the local sources of greenhouse gas emissions and strategically implement projects to reduce these emissions. The Program identifies both the corporate and the community sectors for greenhouse abatement.

In October 2001 Council joined the Regional Community Greenhouse Gases Project and the Regional Community Greenhouse Strategic Plan. It was considered that a regional approach through the Southern Metropolitan Regional Council (SMRC) was the best way of implementing the community component of the CCP Program Milestone 3 – Local Action plan.

Council at its meeting held in December 2001 considered a report on the draft Project Participants Agreement for the Regional Community Greenhouse Gases Project through the SMRC and resolved the following:-

- (1) confirm its agreement to contribute \$18,000 per annum towards the cost of employing a Regional Coordinator, to administer the Regional Greenhouse Project through the Southern Metropolitan Council;
- (2) agree to the terms and conditions as outlined in the Project Participants' Agreement for the Regional Community Greenhouse Gases Project of the Southern Metropolitan Regional Council;
- (3) note that funding is for a period of 2 years with the possibility of an extension subject to the agreement of the participants; and
- (4) authorise the Chief Executive Officer to approve any minor variations as required to the Draft Project Participants' Agreement and arrange for the document to be executed.

In late September 2002 the SMRC Regional Greenhouse Gas Project commenced with the appointment of a Regional Greenhouse

Coordinator on a two year contract in accordance with the Project Agreement signed by the member Councils. The project work has been steered by the CCP Officers Committee and the Regional Community Greenhouse Strategic Plan approved by the SMRC in March 2003 and subsequently, by member Councils.

At the August 2004 Council meeting, the Council was provided with a report outlining the achievements of the project to date and a recommendation to endorse a three-year extension of the project. Council agreed to the recommendation and endorsed the revised Regional Community Project Action Plan 2004-2007, three-year extension. It further acknowledged Melville's withdrawal and the addition of South Perth for 2004-2005.

The agreement is due to expire June 2007 and therefore Council needs to consider continuing the partnership with the Southern Regional Metropolitan Council, and the other participating Councils as outlined in the attached letter.

### **Submission**

The SMRC submitted a proposed Business Plan for a 5-year extension of the Regional Greenhouse Program. The document titled "Forging a Re-Newed Regional Partnership to Tackle Global Warming" is a review of the past 3-year Action Plan achievements and proposes an Action Plan and Budget for a New 5-Year Project Partnership commencing in July 2007.

### **Report**

The current project participation agreement for the Community Greenhouse Abatement Project ends on 30 June 2007. The Project has been in operation now for 5 years and during that time the SMRC has been working in close consultation with the six member Councils in developing and delivering leading programs for greenhouse abatement in the community sector.

The Plan identified six areas of focus for greenhouse gas abatement:

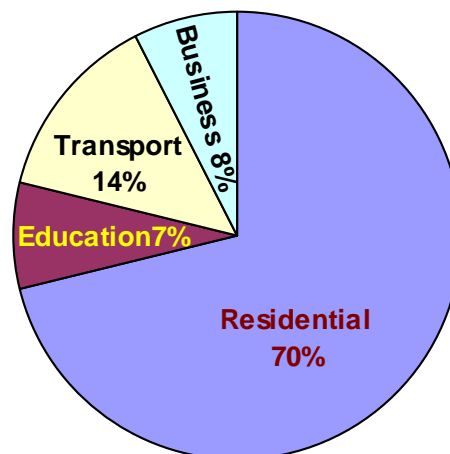
- Improve residential energy efficiency
- Reduce greenhouse gas emissions in the business sector
- Explore opportunities and facilitate renewable energy applications across SMRC region
- Increase levels of awareness in the general community (as well as within council) through education
- Reduce emissions from the transport sector, including alternative fuels in the Council fleet
- Reduce energy consumption from street lighting and traffic lights in the region, in addition to regional information sharing and co-operation on climate change.



The achievements of the Project are outlined in detail in the document “Forging a Renewed Regional Partnership to Tackle Global Warming” as attached however the key achievements of the program are outlined below:

- Regional greenhouse gas reduction achieved for the period 2004-06 – 903 tCO<sub>2</sub>e
- SMRC community surveys clearly demonstrate the importance of global warming as an issue for our community with concern increasing from 67% to 80.2% in a one year period. (Refer attachments page 4)
- Distribution of tCO<sub>2</sub>e demonstrating success of community education programs and the opportunities to expand programs into the other sectors:

**Distribution of tCO<sub>2</sub>e reduction achieved**



The partnership has also produced two award winning programs:

- Living Smart - Eureka Award for Sustainability Education
- Greenhouses – SGIO WA Environment Award for Energy Efficiency

Over the 3-year agreement, 3,400 households now have an understanding of global warming and how these impacts can be mitigated through lifestyle and household changes and over 90 small businesses have participated in energy saving activities achieving an estimated reduction of 1,350 tonnes of greenhouse gas emissions. Furthermore the Regional Greenhouse Project has made significant achievement through increasing the greenhouse gas emission awareness among the community, motivating residences and small businesses toward reducing energy use and waste generation, and as a whole contributing to greenhouse gas emission reduction.

### Continuation of the Regional Community Greenhouse Project

The extended program proposes to implement several greenhouse programs in the region of a larger scale, will involve more communities and will introduce new initiatives e.g. Renewable Energy. The program will use the experiences and networking that have been built over the past 5 years and will continue to deliver tangible benefits to the member council and the community.

Cockburn's participation is critical to our ability to deliver sustainability initiatives at both a local and regional level. Our membership provides a vital networking opportunity and increases our knowledge of the many initiatives and subsequent funding opportunities that are available through the different state and federal government avenues.

There are many advantages and opportunities to be obtained in working together as a region to reduce greenhouse gas emissions, such as:

- Opportunities in resource sharing and economies of scale;
- The programs provide multiple avenues for council to engage with the community through newsletters, courses and services and the council is profiled on all information and publicity materials prepared;
- Financial opportunities from government grants and community partnerships;
- A collective voice will provide a stronger advocacy;
- Improving energy efficiency in the region;
- Enhanced reputation in the eyes of the community, government and other local governments;
- Action rather than talk in the abatement of greenhouse gases.

**Table 5: Proposed Activities (2007-12) and Expected Outcome**

<b>Activities</b>	<b>Expected outcome</b>
Climate Actions (Local Centers combined with households)	Involve 120 businesses and 2,300 households. Reduce 7,500 tCO <sub>2</sub> e
Living Smart Courses	16 courses (3 per year), involve 400 households. Reduce 1,450 tCO <sub>2</sub> e
Light Industry	Involve 75 light industries. High potential of greenhouse gas reduction. Amount to be assessed.
Energy Actions (in homes)	Involve 2,500 households. Reduce 10,500 tCO <sub>2</sub> e
Renewable Energy Initiatives	Involve all member councils. Feasibility study of roof-top PV on icon buildings and assessment of RE application potential across SMRC region.
Climate Education in Schools	Involve 4 schools in trial and material delivery to SMRC schools. Increase in climate change knowledge.
Energy Efficient Streetlighting	Involve all member councils. Councils introduce EE streetlight. Greenhouse gas reduction to be assessed.
Alternative Fuel in	Involve all member councils and RRRC. Councils introduce

Fleet		bio-diesel in councils' fleet.
Greenhouse Meter Piloting		Involve 60 households, evaluate its effectiveness. Reduce electricity use, amount to be assessed.

### Strategic Plan/Policy Implications

#### ***Natural Environmental Management***

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

### Budget/Financial Implications

#### 2007/08 - 2012 Proposed Five Year Budget

**Table 6: Proposed Budget For 2007-08 and Estimates Over The Following 4 Years**

	2006-07	2007-08	2008-09	2009-10	20010-11	20011-12
<b><i>Income</i></b>						
Contributions from Member Councils	108,613	126,259	143,935	164,086	187,058	213,247
<i>Canning</i>	30,466	35,415	33,597	38,300	43,662	49,775
<i>Cockburn</i>	27,444	31,904	39,748	45,314	51,658	58,890
<i>East Fremantle</i>	2,638	3,066	2,788	3,178	3,623	4,130
<i>Fremantle</i>	10,413	12,105	11,006	12,547	14,303	16,306
<i>Kwinana</i>	8,600	9,997	17,608	20,073	22,883	26,087
<i>Rockingham</i>	29,052	33,772	39,188	44,674	50,929	58,059
Contributions from non-member councils	15,753	10,000	15,000	20,000	22,000	20,000
Grants	95,680	65,767	75,000	80,000	80,000	70,000
Others (Internal transfer)		20,000	21,000	22,050	23,152	24,310
<b>Total Income</b>	<b>220,046</b>	<b>222,026</b>	<b>254,935</b>	<b>286,136</b>	<b>312,210</b>	<b>327,557</b>
<b><i>Expenses</i></b>						
Fixed Employment Costs	105,621	110,549	116,076	121,880	127,974	134,373
Project Costs	114,425	111,477	138,859	164,256	184,236	193,184
<i>Local Centres (ClimateActions)</i>	33,580	85,123	38,319	35,450	26,760	24,680
<i>Living Smart</i>	7,206	12,150	15,300	17,500	20,458	26,181
<i>EnergyActions</i>	33,865	5,635	43,640	44,586	45,867	40,900
<i>Energy Efficient Streetlighting</i>		3,123	11,500	8,800	7,264	7,581
<i>Alternative Fuel</i>	1,000	5,446	7,000	7,600	5,624	14,780
<i>ClimateActions in Light Industry</i>			9,150	17,300	46,200	41,430
<i>Renewable Energy</i>			4,200	6,900	7,400	17,480
<i>Greenhouse Meter</i>			3,500	18,600	5,813	5,600
<i>Climate Education in Schools</i>			6,250	7,520	18,850	14,552
<i>Greenhouses</i>	2,523					
<i>Business partnership</i>	5,216					
<i>Target Action Campaign</i>	31,035					
<b>Total Expenses</b>	<b>220,046</b>	<b>222,026</b>	<b>254,935</b>	<b>286,136</b>	<b>312,210</b>	<b>327,557</b>

Notes: AGO grant is for 2007-08 only and others are anticipated grants

Effects of expected population change have been taken into account in the budgets for 2008-12.

Greenhouses and Business Partnership programs will be undertaken as part of ClimateActions and Target Action Campaign will be a part of EnergyActions

The budget allocation over the next 5 years has been derived using the formula outlined in the Project Participants Agreement. The budget allocations are based on population as a proportion of the total participating Council's population. New census data will be available in 2008 and it is projected that Cockburn's population will increase considerably as a proportion. The budget allocations reflect this.

In more detail, the budget increase will enable:

- All participating councils will receive greenhouse initiatives for all three sectors - residential, business and transport over the full year.
- Renewable energy applications will be considered across the SMRC region.
- 80-100 businesses will be engaged through the DEH grant.
- Council's part-funding of business projects officer position.
- 1,600 households are expected to be engaged through the Local Centers initiative and Living Smart in 2007-08.

### **Legal Implications**

The City's involvement will be subject to the Project Participant's Agreement.

### **Community Consultation**

N/A

### **Attachment(s)**

- (1) Letter from the Southern Metropolitan Regional Council.
- (2) Report on Regional Greenhouse Gas Program
- (3) Regional Community Greenhouse Project - Forging a Re-Newed Regional Partnership to Tackle Global Warming

### **Advice to Proponent(s)/Submissioners**

The Proponent has been advised that this matter is to be considered at the 10 May 2007 Council Meeting.

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

Nil.

**16.2 (OCM 10/05/2007) - CLOSURE OF KIESEY STREET, COOGEE (450121) (KJS) (ATTACH)****RECOMMENDATION**

That Council:-

- (1) close Kiesey Street, Coogee to through traffic at the intersection of Cockburn Road in accordance with section 3.50 of the Local Government Act 1995; and
- (2) advise those people who made a submission, accordingly.

**COUNCIL DECISION****Background**

Council at its meeting held on 9 November 2006 resolved to close Kiesey Street to the passage of vehicles at Cockburn Road subject to:

- (1) there being no substantial objection received as a result of advertising in a local newspaper; and
- (2) there being no substantial objection from service authorities, emergency services or adjoining owners.

**Submission**

Sinclair Knight Merz, on behalf of their client Port Catherine Developments Pty Ltd, have requested that the City of Cockburn implement procedures to close Kiesey Street to through traffic at Cockburn Road. This is a requirement for the re-alignment of Cockburn Road.

**Report**

Cockburn Road is under the care, control and management of Main Roads WA and its re-alignment to accommodate the Port Coogee Marina development has been approved by them. As part of the design and construction of Cockburn Road, the closure of Kiesey Street is necessary to rationalise access points for vehicles at Cockburn Road, which will facilitate a safer road network. It is also unlikely that there would be sufficient sight distance to accommodate

an intersection at Kiesey Street, due to the realignment of Cockburn Road.

The proposal was advertised in the Cockburn Gazette and, at the conclusion of the advertising period, five objections were received of which two were from residents of the Coogee Caravan Park, one objection from a resident in Beach Street, one from a resident in Hillcrest Street and one from a resident in Spearwood. One of the objections was lodged in the form of a petition that contained 35 signatories. The petition represented 11 houses in the vicinity of the proposed closure.

Objections centred on the belief that the closure would result in increased traffic in Beach Street and Hillcrest Street as well as general safety and accessibility in the area and to Cockburn Road.

Traffic volumes in Beach Street would be unlikely to increase significantly with traffic volumes projected to be less than 1,000 vehicles per day with similar minor impacts occurring at Mills Street, Fairview Street and Hillcrest Street. These volumes are deemed to be acceptable. The current temporary closure of Ocean Road is also exacerbating the problems, however, traffic will be better distributed amongst the local roads once that road is opened.

This closure will improve the safety and access to Cockburn Road. The developer also proposes to establish a set of signals on Cockburn Road within the development precinct and this will improve the accessibility beyond the development area. Signals are also proposed at the intersection of Spearwood Avenue. On this basis it is believed that the community concerns raised will be mitigated. Main Roads WA have endeavoured to rationalise the number of access points to Cockburn Road, which is essential to provide a safe network particularly as traffic volumes increase. Officers believe that retaining an intersection at Kiesey Street is not desirable and support its closure.

There has been no objection to the proposal from service authorities or the emergency service authorities.

## **Strategic Plan/Policy Implications**

### ***Demographic Planning***

- *To ensure development will enhance the levels of amenity currently enjoyed by the community.*

### ***Transport Optimisation***

- *To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.*

**Budget/Financial Implications**

All costs for the closure will be covered by the Developer.

**Legal Implications**

Section 3.50 of the Local Government Act.

**Community Consultation**

The proposal has been advertised in a local newspaper and service authorities, emergency services and adjoining owners advised.

**Attachment(s)**

- (1) Two Site Plans
- (2) One Petition
- (3) Five Objection Letters

**Advice to Proponent(s)/Submissioners**

The submissioners have been advised that this matter is to be considered at the May 2007 Council Meeting.

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES****17.1 (OCM 10/05/2007) - REVIEW OF CITY OF COCKBURN LIBRARY SERVICES (710101) (DMG) (ATTACH)****RECOMMENDATION**

That Council:

- (1) receive the report on the "Review of City of Cockburn Library Services", March 2007, as attached to the Agenda;
- (2) adopts recommendations 4-7; 11-13; 16, 17 and 19 relevant to the provision of future library infrastructure for the City and includes in the updated "Plan for the District 2006-2016" review to be conducted in 2008/09 cost estimates for the identified facilities; and
- (3) requires that the remaining recommendations be the subject of staff reports for consideration by Council prior to implementation, where necessary.

**COUNCIL DECISION****Background**

At the December 2006 Council Meeting, the Plan for the District 2006-2016 was adopted by Council, together with the allocation of \$30,000 to enable a strategic review of the Library Services to be undertaken. Subsequently, through a publicly called Expression of Interest (EOI) process, AEC Group, a Brisbane based consultancy firm, was commissioned to undertake the review on behalf of Council. A consultancy team, lead by Dr Veronica Lunn, who has extensive experience and qualifications in the field of libraries and management systems, undertook detailed studies and analysis of the City of Cockburn Library Services.

These analyses took the form of extensive data gathering and comparison with state and national standards and best practice models in order to enable recommendations to be provided to Council, which are based on accepted guidelines and principles.

Dr Lunn's Final Report is accompanied by extensive appendices and recommended operational action plans which are comprehensive in detail and serve to verify the depth of research undertaken in the preparation of the Final Report.

The process also involved widespread consultation with stakeholders of the City's library services, including community groups, staff and elected members. A number of on site visits to the current library facilities, including an assessment of the planned Cockburn Central integrated project, was undertaken to complement the in-depth information researched and compiled.

While only the Final Report has been included as an attachment to this report, the complete suite of associated information has been previously provided to elected members for their consideration in conjunction with the document.

A full copy of the report, appendices and draft Strategic Plan are to be made available for public perusal and on Council's web page.

**Submission**

N/A



## Report

The Consultant's Report contains a number of clear and succinct recommendations to Council on the manner in which Council's library service should be delivered into the future.

The objectives and scope of work for the consultancy have identified some areas for which Council has the potential to increase and/or improve its service delivery and the manner in which to quantify the investment likely to be required to achieve these standards.

Council needs to be clearly aware that the recommendations which impact on the suggested infrastructure provisions will incur a significant up front capital investment on its behalf to be fully implemented.

Initially, the Master Planning exercise for the recommendations relating to the built infrastructure will address the practicalities of each proposal. More detailed cost impacts of the proposals will need to be identified when advanced plans are submitted for Council's consideration at a later stage. However, the Report has recognised that the integrated service provision model has the potential to realise longer-term economic and social benefits to the City. As such, the recommended course of action, which provides for a master planning exercise to be undertaken at each of the sites upon which Council's library infrastructure will be located into the future, is supported as a prerequisite to Council further considering the merits of these scenarios. Overall, it will enable Council to independently assess each part of the integrated facilities and determine, at a more detailed level, the benefits, both cost and social, of each proposal at a more advanced stage of development.

Most of the remaining recommendations relate to either one off budgetary items or the preparation of operational plans to ensure the intention of certain actions is effectively embraced and sufficiently documented to facilitate future implementation.

All of these issues are contained in some form, within the document titled "Library Strategic Plan 2007-2010", which has previously been provided to elected members. In order to effectively achieve the desired outcomes promoted by this Plan, extensive documentation will need to be prepared by relevant library staff, some of which will require Council consideration, but most of which will become the content of Action Plans required to be undertaken and achieved by identified library staff. Any matters flowing from those processes which require Council approvals will be the subject of individual consideration by Council through the normal decision making process.

Overall, each individual aspect of the Strategic Plan can be addressed by staff, either through seeking Council approval, where necessary, or

by integrating operational matters into action plans which will drive the recommended outcomes.

In conclusion, the Review and subsequent Report represents a number of ambitious proposals which, if accepted and effectively delivered, will position the City of Cockburn Library Service at the forefront of service providers not only in this state, but also throughout Australia.

However, in acknowledging that the service has performed admirably up until now with limited space and resources, the review recommends that for noticeable advances to be achieved, a significant initial increase in Council provided funds, both capital and operational, will need to be considered.

Accordingly, it is apparent that the level to which Council is prepared to provide for the improvement initiatives recommended in the review will determine the extent to which these outcomes can be achieved.

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

#### ***Infrastructure Development***

- *To construct and maintain community facilities that meet community needs.*

#### ***Lifestyle and Aspiration Achievement***

- *To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.*

### **Budget/Financial Implications**

Significant future capital expenditure will be required, in accordance with infrastructure plans ultimately adopted by Council. No capital expenditure associated with the Report will impact on the 07/08 Budget.

Some minor expenditure may be required if proposals to lease "self issue" machines are accepted by Council.

### **Legal Implications**

N/A

### **Community Consultation**

The review process was subject to meetings between the consulting firm and community organisations, library staff, management staff and elected members.

**Attachment(s)**

A.E.C. Group Report "Review of City of Cockburn Library Services"

**Advice to Proponent(s)/Submissioners**

Community organisations invited to the original workshops have been advised that the item will be considered by Council at the meeting to be held on 10 May 2007.

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

Nil.

**17.2 (OCM 10/05/2007) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING HELD ON - 16 APRIL 2007 (5930) (RA) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Grants and Donations Committee meeting held on 16 April 2007 and adopt the recommendations contained therein.

**COUNCIL DECISION**

**Background**

The Council of the City of Cockburn established the Grants and Donations Committee to recommend on the level and nature of Grants and Donations provided to external organisations.

**Submission**

To receive the minutes of the Grants and Donations Committee and adopt the recommendations of the Committee.

**Report**

The committee considered a number of applications for donations from external organisations and made recommendations as per the minutes attached to the Agenda.

## **Strategic Plan/Policy Implications**

### ***Governance Excellence***

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

## **Budget/Financial Implications**

In accordance with Policy SC35 Council has allocated 2% of its rates income for distribution as grants and donations.

## **Legal Implications**

N/A

## **Community Consultation**

The availability of donations to organisations were widely advertised in the local media and Council publication

## **Attachment(s)**

Minutes of Grants and Donations Committee Meeting 16 April 2007.

## **Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

### **17.3 (OCM 10/05/2007) - FUNDING PLAN FOR REGIONAL COOGEE BEACH SURF LIFE SAVING AND COMMUNITY FACILITY - POORE GROVE, COOGEE (8004) (RA) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) reiterates its commitment to contribute \$1.0 million to the construction of facilities associated with the Coogee Beach Surf Life saving Club (the Club);
- (2) requires the Club to present a prospective funding plan for the proposed facilities, as shown in the attachment to the Agenda; and
- (3) upon receipt of the funding plan:

1. arrange for the preparation of all reports and documentation related to the conditions imposed by the Western Australian Planning Commission relative to the Development Approval; and
2. consider entering a Memorandum of Understanding with the Club that provides for the following:
  - (a) the Club be commissioned by the City of Cockburn to construct the facilities as approved by Council at a future meeting;
  - (b) the appointment of an Architect to oversee the project;
  - (c) details of leasing arrangements for the facilities between the City and the Club; and
  - (d) any other matters relative to the project and which clarifies the responsibilities of both parties.

## COUNCIL DECISION

### Background

Council at its meeting of the 20<sup>th</sup> May 2003 resolved to support the establishment of the Coogee Beach Surf Life Saving Club at Poore Grove Coogee and to instigate the necessary process for approval to develop the site for a surf club.

In accordance with the Council decision, specialist consultants were commissioned to provide advice on coastal engineering (MP Rogers & Associates), environmental services (Ecoscape) and architectural design (Bateman, Grundman & Wilson). The subsequent information and advice received was submitted to the Department of Planning and Infrastructure along with a Development Application for the site.

The City received approval from the Western Australian Planning Commission (WAPC) on the 2nd March 2007 to develop the site for a Surf Life Saving Club subject to the following conditions.

1. The preparation and implementation of an environmental management plan for the site in accordance with the requirements of the Department of Environment and Conservation.

2. The preparation of a flora and vegetation survey, bush condition mapping and rehabilitation plan in accordance with the requirements of the Department of Environment and Conservation.
3. The provision of a suitable buffer to the Rottnest Cypress Threatened Ecological Community, south east of the main car park, in accordance with the requirements of the Department of Environment and Conservation.
4. Parking areas to be designed, be revegetated and incorporate vegetation worthy of retention in accordance with the requirements of the Department of Environment and Conservation.
5. Stormwater to be contained on-site or in accordance with an agreed drainage regime with the Department of Environment and Conservation.

In addition to the aforementioned conditions there is a requirement under the Aboriginal Heritage Act for Council to carry out an ethnographic study of the area.

### **Submission**

N/A

### **Report**

The development of a Surf Life Saving Club on the Poore Grove site is a somewhat complex and expensive undertaking. This report seeks to outline the means by which the process for the development of the facilities provides clarity in the roles and responsibilities of the City and the Surf Life Saving Club. Of particular importance is developing a process that ensures the Surf Life Saving Club can maximise its opportunities for government grants and corporate sponsorship.

As the completed facility will be developed on land controlled by the City the completed work will be a Council asset. The implication of this is that the surf club will need to enter a lease agreement with the City for those facilities approved by Council. Furthermore, Council needs to ensure that the facilities constructed are sound and in accordance with all requisite statutory standards.

However, initially Council and the Club need to be satisfied that there is an adequate funding plan in place to ensure there is the capacity for the project to be financially sustainable. For this purpose, it is

important for Council to reiterate its commitment to the project of \$1.0 million, as indicated in the Plan for the District 2006-2016.

Similarly, it is necessary for the Club to be assured that its Grant and sponsorship funding programme is sufficient to cover the estimated cost of constructing the facilities shown in the attachment.

This is an integral part of the process, as it will be necessary for Council to be ultimately accountable for any facilities constructed on property for which it has control. Accordingly, it will be necessary for Council to approve the extent and design of the facilities prior to entering into any formal arrangements with the Club for its development and ongoing management.

Upon these matters being satisfactorily addressed by the Club and determined by Council, it may then be possible for the necessary formal approvals to be sought and the project eventually commenced.

It is proposed that this be achieved through a Memorandum of Understanding (MOU) between Council and the Club to ensure that the facilities are satisfactorily constructed and that all probity issues are appropriately addressed.

Matters to be incorporated in the MOU will include, but not necessarily be restricted to, the following:

- the appointment of an architect to undertake all necessary work associated with the documentation and tendering of the approved scope of works;
- responsibility for obtaining all necessary statutory approvals for the construction works;
- accountability of all costing aspects of the project and auditing processes to be initiated to ensure financial probity is maintained; and
- details of potential future leasing arrangements between the City and the Club.

As described in the background section of this report the development approval provided by the WAPC places a number of conditions upon the City which relate to environmental conservation and include the requirement for an environmental management plan, and a flora and fauna survey to meet the requirements of the Department of Environment and Conservation. It is proposed that the City manage these and the other conditions imposed by the WAPC. These are matters of a formal approval nature that can be readily overseen by experienced City staff.

## **Strategic Plan/Policy Implications**

### ***Demographic Planning***

- *To ensure development will enhance the levels of amenity currently enjoyed by the community.*

### ***Infrastructure Development***

- *To construct and maintain community facilities that meet community needs.*
- *To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.*

### ***Lifestyle and Aspiration Achievement***

- *To facilitate and provide an optimum range of community services and events.*

## **Budget/Financial Implications**

Council placed \$100,000 on its 2006/07 Municipal budget to prepare a design for the building and to contract any specialist consultants required to meet the statutory approval requirements. There are sufficient funds on the 2006/07 budget to contract consultants to prepare the requisite specialist plans required with the development approval.

Council's current Plan for the District provides for Council's overall contribution to the project of \$1,000,000.

## **Legal Implications**

N/A

## **Community Consultation**

The location of the Coogee Beach Surf Life Saving Club on Poore Grove was included in the Coogee Beach Structure Plan that was advertised for public comment in mid 2004 and was adopted by Council at its meeting of 19 October 2004.

A development application was submitted to the Department of Planning and Infrastructure, the processing of which required submissions on the application from the Coastal Planning Branch of DPI; Department of Environment and Conservation (previously CALM); and the Department of the Environment. The proposal was also discussed with the Woodman Point Advisory Committee and an on site meeting held with the WA Conservation Council.



The consultation process followed met the requirements of the WAPC, which approved the development application in March 2007 and placed a number of conditions on the development that are provided within the report.

**Attachment(s)**

Architect's concept plans showing staging options.

**Advice to Proponent(s)/Submissioners**

The executive of the Coogee Beach Surf Life Saving Club have been advised that the matter will be considered at the May 2007 Council Meeting.

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

The provision of a Surf Club falls within the responsibilities of a Local Government Authority to provide facilities for the benefit of the community.

**18. EXECUTIVE DIVISION ISSUES**

**18.1 (OCM 10/05/2007) - CHIEF EXECUTIVE OFFICER PERFORMANCE AND SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE - MARCH 2007 (1192) (SC) (ATTACH)**

**RECOMMENDATION**

That Council receives the Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee dated 22 March 2007, as attached to the Agenda, and adopts the recommendations contained therein.

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

**COUNCIL DECISION**

**Background**

The Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee met on 22 March 2007. The minutes of that

meeting are required to be presented to Council and its recommendations considered by Council.

### **Submission**

The minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.

### **Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council. Any elected member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

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

#### ***Governance Excellence***

- *To maintain a professional, well-trained and healthy workforce that is responsive to the community's needs.*

### **Budget/Financial Implications**

Committee Minutes refer.

### **Legal Implications**

Committee Minutes refer.

### **Community Consultation**

N/A

### **Attachment(s)**

Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee of 22 March 2007 are provided to the Elected Members as confidential attachments.

### **Advice to Proponent(s)/Submissioners**

The CEO has been advised that this item will be considered at May 2007 OCM.

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

Committee Minutes refer.

**18.2 (OCM 10/05/2007) - RELEASE OF LEGAL ADVICE TO THIRD PARTIES (1054) (SC) (ATTACH)****RECOMMENDATION**

That Council make the attached legal advice from Jackson MacDonald available for release to third parties in accordance with Policy SES 1 - 'Obtaining Legal and Other Expert Advice'.

**COUNCIL DECISION****Background**

The City's Policy SES1 - 'Obtaining Legal and Other Expert Advice' requires copies of legal advice to be made available to Elected Members, but not disclosed to third parties without a resolution of Council. While the City retains most legal advice on a confidential basis, from time to time advice is released, particularly if it relates to a public interest matter. The City has recently completed an investigation into such a matter and as result of this Councillor Graham has requested that the legal advice be made available to third parties.

**Submission**

The following submission was received from Councillor Graham:

*"I ask the City to waive any legal professional privilege in relation to the advice. My reason for the request is that I may need to disclose the advice to a third party in the future in order to defend an accusation that I had not made a proper declaration."*

**Report**

As a result of recent revelations at the Crime and Corruption Commission (CCC), the City conducted an investigation into the election advertising costs of Councillors Allen, Graham and Oliver. During the CCC hearings questions were raised about undeclared gifts to the election campaign of Mayor Lee. As the Mayor had conducted some joint advertising with Councillors Allen, Graham, Oliver and former Councillor Martin Reeve-Fowkes, the investigation sought to determine whether any of these parties had also been beneficiaries of an undeclared gift.

Legal advice was obtained from the City's solicitors, Jackson MacDonald, which made recommendations to obtain documents from the CCC. These documents, copies of invoices, were obtained from the CCC, with the assistance of Councillor Graham. They provided the basis by which the City was able to ascertain the exact proportion of joint advertising costs that each Councillor should have paid, had they directly received invoices for their share of the advertising costs.

The investigation determined that these Councillors and Mr Reeve-Fowkes had correctly paid their proportion of these costs. As such they had not breached the Local Government Act (1995) (the Act) or any of the regulations relating to the declaration of gifts.

The review findings were subsequently sent to the City's solicitors for certification. The solicitors concurred with the City's findings and provided advice to that effect. As there had been much public speculation about the CCC process and its potential findings, the Chief Executive Officer, Mr Stephen Cain, also decided to request the Department of Local Government and Regional Development to review the findings of the investigation.

The Department completed its review at the end of April and also confirmed the City's investigation was accurate. Councillors Allen, Graham, Oliver and former Councillor Reeve-Fowkes had not breached any provisions of the Act in regard to their electoral advertising campaign.

Following the request from Councillor Graham and in accordance with Policy SES1, the City sought advice from Jackson MacDonald that their advice could be made available for release to third parties without future detriment to the City. It is therefore recommended that the legal advice be made available.

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

#### ***Governance Excellence***

- *To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.*

Policy SES1 - 'Obtaining Legal and Other Expert Advice'

### **Budget/Financial Implications**

The costs of legal advice are provided for in the City's budget.

### **Legal Implications**

The City's solicitors have advised that legal advice could be released without detriment to the City.

**Community Consultation**

N/a

**Attachment(s)**

Confidential legal advice from Jackson MacDonald circulated under separate cover.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

19. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
  
20. **NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**
  
21. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**
  
22. **MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**
  
23. **CONFIDENTIAL BUSINESS**

**24. (OCM 10/05/2007) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**