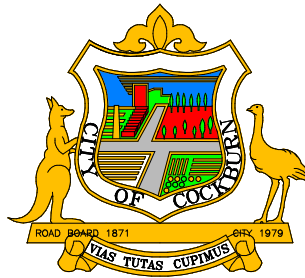


# **CITY OF COCKBURN**



## **ORDINARY COUNCIL**

## **AGENDA PAPER**

**FOR**

**THURSDAY, 12 AUGUST 2010**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 12 AUGUST 2010 AT 7:00 PM

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	Page
1. DECLARATION OF MEETING.....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED) .....	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER).....	1
4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER) .....	1
5. APOLOGIES AND LEAVE OF ABSENCE .....	1
6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	1
7. PUBLIC QUESTION TIME .....	1
8. CONFIRMATION OF MINUTES.....	1
8.1 (OCM 12/08/2010) - ORDINARY COUNCIL MEETING - 8/07/2010.....	1
9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE.....	2
10. DEPUTATIONS AND PETITIONS .....	2
11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (IF ADJOURNED) .....	2
12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER .....	2
13. COUNCIL MATTERS.....	2
13.1 (OCM 12/08/2010) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 19 JULY 2010 (5930) (R AVARD) (ATTACH) .....	2
14. PLANNING AND DEVELOPMENT DIVISION ISSUES .....	5
14.1 (OCM 12/08/2010) - CONSIDERATION OF ADOPTION OF LOCAL PLANNING POLICY (NEWMARKET PRECINCT DESIGN GUIDELINES) FOR FINAL APPROVAL - APPLICANT: CITY OF COCKBURN - OWNER: VARIOUS (93082) (D DI RENZO) (ATTACH).....	5
14.2 (OCM 12/08/2010) - DEVELOPMENT APPLICATION FOR EIGHT (8) STOREY MIXED USE BUILDING COMPRISING: OFFICE FLOORSPACE, A CAFÉ, BAR/RESTAURANT, SERVICED APARTMENTS AND 18 MULTIPLE (RESIDENTIAL) DWELLINGS - LOCATION: LOTS 1 AND 2 BELLION DRIVE (CORNER COCKBURN ROAD) HAMILTON HILL - OWNER: KARRISMA PTY LTD - APPLICANT: PETER D WEBB AND ASSOCIATES (2207502) (T WATSON) (ATTACH) .....	17

14.3	(OCM 12/08/2010) - PROPOSED 'TAVERN' - LOCATION: LOT 6 (NO. 103) HAMMOND ROAD, COCKBURN CENTRAL - OWNER: MR WALTER LENZ - APPLICANT: MR WALTER LENZ (5513240) (M SCARFONE) (ATTACH) .....	34
14.4	(OCM 12/08/2010) - BRANCH CIRCUS DISTRICT STRUCTURE PLAN AND RECENT DECISIONS RELATING TO WETLAND ASSESSMENTS - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (SM/M/024) (M CARBONE) (ATTACH) .....	45
14.5	(OCM 12/08/2010) - PROPOSED SCHEME AMENDMENT NO. 55 - REZONING THE FORMER PRIMARY SCHOOL SITES WITHIN COOLBELLUP (RESERVES 38242, 38243 AND 30233) FROM 'PUBLIC PURPOSES - PRIMARY SCHOOL' TO 'DEVELOPMENT' - OWNER: DEPARTMENT OF EDUCATION - APPLICANT: RPS (93055) (M CARBONE) (ATTACH) .....	49
14.6	(OCM 12/08/2010) - SALE OF LAND - LOT 801 SOUTHWELL CRESCENT, HAMILTON HILL - APPLICANT: YARAN PTY LTD ATF SOUTHWELL 801 TRUST - OWNER: CITY OF COCKBURN (6010702) (K SIM) (ATTACH) .....	61
14.7	(OCM 12/08/2010) - SALE OF LAND - LOT 1004 BIRCHLEY ROAD, BEELIAR - APPLICANT: FEYMORE PTY LTD - OWNER: CITY OF COCKBURN (4414000) (K SIM) (ATTACH) .....	64
14.8	(OCM 12/08/2010) - CONSIDERATION OF FUTURE MANAGEMENT FOR RESERVE 24308 (NAVAL BASE SHACKS) - OWNER: STATE OF WESTERN AUSTRALIA - APPLICANT: CITY OF COCKBURN (1914) (A TROSIC / D ARNDT) (ATTACH) .....	67
15.	FINANCE AND CORPORATE SERVICES DIVISION ISSUES .....	84
15.1	(OCM 12/08/2010) - LIST OF CREDITORS PAID - JUNE 2010 (N MAURICIO) (5605) (ATTACH) .....	84
15.2	(OCM 12/08/2010) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - JUNE 2010 (5505) (N MAURICIO) (ATTACH) .....	85
15.3	(OCM 12/08/2010) - TENDER NO. RFT38/2009 & RFT04/2010 - ADVERTISING SERVICES - LOCAL NEWSPAPER (RFT04/2010) (S DOWNING) (ATTACH) .....	91
16.	ENGINEERING AND WORKS DIVISION ISSUES .....	96
16.1	(OCM 12/08/2010) - TENDER NO. RFT 11/2010 - CONSULTANCY SERVICES - ENGINEERING DESIGN (RFT11/2010) (J RADAICH) (ATTACH) .....	96
16.2	(OCM 12/08/2010) - PERMANENT CLOSURE OF MIGUEL ROAD BIBRA LAKE TO THE PASSAGE OF VEHICLES - APPLICANT: CITY OF COCKBURN (ES/R/002) (V IWUOHA) (ATTACH).....	105
16.3	(OCM 12/08/2010) - PERMANENT CLOSURE OF HOWSON WAY BIBRA LAKE TO THE PASSAGE OF VEHICLES - APPLICANT: CITY OF COCKBURN (ES/R/002) (V IWUOHA) (ATTACH).....	107
16.4	(OCM 12/08/2010) - TEMPORARY CLOSURE OF A SECTION OF LINKAGE AVE IN COCKBURN CENTRAL TO THE PASSAGE OF VEHICLES (4200A) (S HUSSAIN) (ATTACH) .....	109

16.5	(OCM 12/08/2010) - TEMPORARY CLOSURE OF LYON ROAD IN HARVEST LAKES SUBDIVISION IN ATWELL TO THE PASSAGE OF VEHICLES (4292) (S HUSSAIN) (ATTACH) .....	112
17.	COMMUNITY SERVICES DIVISION ISSUES.....	115
17.1	(OCM 12/08/2010) - ADOPTION OF CHILDREN'S SERVICES STRATEGIC PLAN (CR/M/004) (G BOWMAN) (ATTACH) .....	115
18.	EXECUTIVE DIVISION ISSUES .....	119
19.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	119
20.	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING.....	119
21.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS .....	119
22.	MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE.....	119
23.	CONFIDENTIAL BUSINESS.....	119
24	(OCM 12/08/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995).....	119
25.	CLOSURE OF MEETING.....	120

## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 12 AUGUST 2010 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)**
5. **APOLOGIES AND LEAVE OF ABSENCE**
6. **ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
7. **PUBLIC QUESTION TIME**
8. **CONFIRMATION OF MINUTES**
  - 8.1 **(OCM 12/08/2010) - ORDINARY COUNCIL MEETING - 8/07/2010**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 8 July 2010, as a true and accurate record.

**COUNCIL DECISION**

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

**10. DEPUTATIONS AND PETITIONS**

**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**

**13. COUNCIL MATTERS**

**13.1 (OCM 12/08/2010) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 19 JULY 2010 (5930) (R AVARD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the Minutes of the Grants and Donations Committee meeting held on 19 July 2010, and adopt the recommendations contained therein; and
- (2) approve an allocation of \$10,000, to be drawn from the adopted allocation for donations in 2010/11, to provide interim funding to the Melville/Cockburn Chamber of Commerce, to implement a review of the current organisational business model to ensure long term financial and operational sustainability.

**COUNCIL DECISION**

## **Background**

The Council of the City of Cockburn established the Grants and Donations Committee to recommend on the level and the nature of grants and donations provided to external organisations and individuals. The Committee is also empowered to recommend to Council on donations and sponsorships to specific groups and individuals.

Council approved a budget for grants and donations for 2010/11 of \$816,057. The Grants and Donations Committee is empowered to recommend to Council how these funds should be distributed.

## **Submission**

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

## **Report**

The Melville Cockburn Chamber of Commerce (MCCC) is seeking interim funding of up to \$10,000 with the City's donation to be matched by the City of Melville. It is proposed this funding be made available to the MCCC prior to the usual application round to allow the MCCC to implement an urgent review of the current organisational business model to ensure long term financial and operational sustainability.

Due to the lack of a quorum for this item at the Grants and Donations Committee Meeting on 19 July 2010, the motion to recommend the approval of this request lapsed.

The City has provided donation and sponsorship funding from the grants and donations budget to the MCCC for several years to assist with the operational cost of delivering timely information, events and services to the business community of the City of Cockburn.

October 2006	-	\$20,000
October 2007	-	\$20,000
September 2008	-	\$20,000
September 2009	-	\$20,000

## **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**

Council approved a budget for grants and donations for 2010/11 of \$816,057.

Following is a summary of the proposed grants, donations and sponsorship allocations proposed by the Committee.

Committed/Contractual Donations	\$166,595
* Specific Grant Programs	\$429,462
* Donations	\$180,000
* Sponsorship	\$40,000
<u>Total of Proposed Allocations</u>	<u>\$816,057</u>
Total Funds Available	\$816,057
<u>Less Total of Proposed Allocations</u>	<u>\$816,057</u>
Unallocated Balance	\$0

*\* These allocated funds are available to be drawn upon in response to grants, donations and sponsorship applications from organisations and individuals.*

### **Legal Implications**

N/A

### **Community Consultation**

The position of Council is for the availability of grants and donations to be advertised through the City's website, local media, Cockburn Soundings, Council networks and related means.

It is recommended that advertising commence immediately following the Council decision in August and September 2010 to ensure a wider representation of applications.

### **Attachment(s)**

1. Minutes of the Grants and Donations Committee Meeting on 19 July 2010, including Summary of Grants, Donations and Sponsorship Committee Recommended Allocations 2010/11.

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

The Proponent has been advised that this matter is to be considered at the 12 August 2010 Council Meeting.

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

Nil



## 14. PLANNING AND DEVELOPMENT DIVISION ISSUES

### 14.1 (OCM 12/08/2010) - CONSIDERATION OF ADOPTION OF LOCAL PLANNING POLICY (NEWMARKET PRECINCT DESIGN GUIDELINES) FOR FINAL APPROVAL - APPLICANT: CITY OF COCKBURN - OWNER: VARIOUS (93082) (D DI RENZO) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) in pursuance of Clause 2.5.2(b) City of Cockburn Town Planning Scheme No. 3 ("Scheme"), adopt the Local Planning Policy for the purposes of applying Design Guidelines to the Newmarket Precinct of the Cockburn Coast District Structure Plan area with the modifications as reflected in Agenda Attachment 1 to this report;
- (2) publishes notice of the adopted Policy in accordance with Clause 2.5.3 of the Scheme; and
- (3) advise those who have made a submission of Council's decision accordingly.

#### COUNCIL DECISION

#### Background

At the meeting of 13 May 2010 Council adopted the Draft Local Planning Policy (Newmarket Precinct Design Guidelines) ("Draft Policy") for the purposes of community consultation. The Draft Policy was subsequently advertised for public comment from 25 May 2010 to 16 June 2010. The purpose of this report is to now consider the Draft Policy for final adoption, in light of the submissions made during the public comment period.

#### Submission

##### Cockburn Coast District Structure Plan

The Cockburn Coast District Structure Plan ("District Structure Plan") has been prepared to guide future land use and transport initiatives within the area stretching between South Beach and the Port Coogee marina. The Western Australian Planning Commission ("WAPC")

resolved to endorse the District Structure Plan in August 2009 (refer to Agenda Attachment 3).

The District Structure Plan sets a framework for future redevelopment of the Cockburn Coast area as an intensive, mixed use urban environment. It contains provisions relating to the desirable character of identified Precincts, including land use mix, height and built form elements. It provides a framework for guiding development, and furthering local level planning and decision making.

The WAPC has resolved to amend the Metropolitan Region Scheme ("MRS") to rezone the North Coogee industrial area to reflect the outcomes of the District Structure Plan (MRS Amendment No. 1180/41). The MRS amendment was advertised for public comment until 14 May 2010. At the meeting of 8 April 2010 Council resolved to make a submission to the WAPC supporting the proposed MRS amendment, subject to minor modifications. This submission was sent to the WAPC on 20 April 2010.

The Draft Policy does not affect the land proposed to be reserved as 'Primary Regional Roads' reservation under the MRS. Instead, the Draft Policy seeks to ensure that future development appropriately interfaces with the eastern 'Primary Regional Roads' reservation.

It is understood that the proposed alignment of the reservation is yet to be finalised as part of the proposed MRS amendment. Notwithstanding this, the Draft Policy is constructed in such a way that it will be able to respond to any changes to the reservation which may eventuate.

### Newmarket Precinct

The Newmarket Precinct is located within the District Structure Plan area, and is bound by Rockingham Road to the north, Cockburn Road to the west and the 'Primary Regional Roads' reservation to the south and east.

The Newmarket Precinct is the only land within the District Structure Plan area which has current urban development opportunities; given that it is zoned 'Urban' under the MRS and 'Residential', 'Business', 'Mixed Business' and 'Local Centre' under the City of Cockburn Town Planning Scheme No. 3 ("Scheme"). For this reason, management of the existing zoning provisions against the District Structure Plan's anticipated outcomes is critical. This is the key objective behind the preparation of the Draft Policy, to establish the Newmarket Precinct Design Guidelines.

The Newmarket Precinct is an emerging residential area characterised by existing commercial development along Cockburn and Rockingham Roads, which are currently zoned 'Local Centre' and 'Mixed Business'.

The majority of residential development within the precinct is located on Boyd Crescent and Bellion Drive, which is currently, zoned 'Mixed Business' and 'Residential'. In addition to the existing medium density residential development, Boyd Crescent and Bellion Drive also contain a mix of other uses such as automotive mechanics and cabinetmakers on the 'Mixed Business' zoned land.

It is noted that most of this area is developed, and most properties are unlikely to be redeveloped in the short to medium term. However, there are some key sites that may be redeveloped in the short to medium term and it is still important to ensure that the zoning framework reflects the outcomes of the District Structure Plan to enable consideration of future development proposals.

### Proposed Scheme Amendment No. 82

The District Structure Plan designates three key areas within the Newmarket Precinct as follows:

- \* Local activity node
- \* Residential area
- \* Mixed use area.

The existing zonings within the Newmarket Precinct ('Local Centre', 'Mixed Business and 'Residential R60') do not correspond with the three areas designated in the District Structure Plan. In addition, the types of land uses that are outlined in the District Structure Plan for the three designated areas do not fit within any of the other zones under the Scheme.

To address this issue Council initiated Scheme Amendment No. 82 at its meeting on 10 June 2010. Scheme Amendment No. 82 proposes to include the local activity node; residential area and mixed use area within three new 'Special Use' zones (refer to Agenda Attachment 5). 'Special Use' zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme. For 'Special Use' zones, the permissibility of land use is set out in Schedule 4 of the Scheme, rather than being included in Table 1.

Scheme Amendment No. 82 also proposes to implement the outcomes of the District Structure Plan for the Newmarket Precinct, and facilitate appropriate interim uses on the 'Industry' zoned land with the District Structure Plan area.

At the time of writing this report, the City was awaiting consent to advertise being received from the Environmental Protection Authority ("EPA").

Draft Local Planning Policy (Newmarket Precinct Design Guidelines)

The District Structure Plan identifies the opportunity for the Newmarket Precinct to develop as a small village with a local activity node as a focal point. This focal point will accommodate lifestyle activities, including food and beverage establishments that cater for the emerging population and will provide a variety of dwelling types. Other non-residential uses will be supported on the basis they can successfully coexist with residential development, either within a mixed use building or on an adjoining site.

The District Structure Plan identifies that the form and scale of new development within the Newmarket Precinct is to be 'urban' in character, facilitating development generally in a range of three to five storeys, complemented by significant improvements to the streetscape. Additionally, iconic development is to be facilitated through the designation of landmark and gateway site elements, commensurate with the strategic vision and objectives of the District Structure Plan.

The District Structure Plan included precinct character guidelines for each of the identified precincts. The relevant character guidelines for the Newmarket Precinct (Section 2.10.7) are provided within Agenda Attachment 4.

At the meeting of 10 June 2010 Council adopted the Draft Local Planning Policy (Newmarket Precinct Design Guidelines) for the purposes of community consultation. The Draft Policy was subsequently advertised for public comment from the 25 May 2010 to 16 June 2010. A copy of the Draft Policy is provided in Agenda Attachment 1.

The Draft Policy has been prepared to ensure that new developments within the Newmarket Precinct are consistent with the District Structure Plan.

Key objectives of the Policy are:

- \* To provide a mix of dwelling types to cater for a range of living options.
- \* To promote a vibrant and sustainable environment that integrates living, working and leisure opportunities.
- \* To encourage lower level of car dependence for those travelling to and within the area by promoting public and non-motorised transport options.
- \* To ensure that any development deals with both the designation and distribution of height across the Precinct in a comprehensive manner.
- \* To ensure the efficient and effective upgrade of infrastructure to support orderly development and meet the demands arising from new development.

Specific sections of the Draft Policy are discussed following.

### Residential Land Use

The Draft Policy stipulates that proposals for residential development should demonstrate diversity in dwelling types, through the incorporation of different sized and designed dwellings (as part of the one project). While it may be the case that not all dwelling types will be presented as part of one development there is an expectation that a number of different types comprise every proposal.

It also outlines that measures should be taken to ensure that the ground floor level of new residential development (fronting a public street) can be converted to non-residential uses when the demand arises. This includes a minimum 3.6m floor to ceiling height at the ground floor level.

### Mixed Use

The Draft Policy seeks to ensure that mixed use potential is created even at the early stages of development when the market might not yet support non-residential use. Buildings that front a public street should be constructed in a robust way that will allow for retrofitting to occur at a later date (e.g. residential capacity on the ground floor with the ability to retrofit into the future for commercial uses).

### Local Activity Node

The Draft Policy outlines that large mall based retail with large expanses of car parking will not be supported; and that built form within the local activity node will be expected to have a strong interface with Cockburn Road through nil to minimum setbacks to the lot boundary. This is consistent with the objectives set out in the District Structure Plan.

### Transport

The Draft Policy outlines that the higher order road layout should be in accordance with the District Structure Plan, and that any development seeking alterations and/or additions to the lower road network must be supported by detailed design work to demonstrate that proposed alterations align with the intent of the District Structure Plan.

To ensure appropriate permeability, the Draft Policy outlines that development on Lot 2 Bellion Drive Hamilton Hill will require the ceding of land and construction of an additional road network connection between Boyd Crescent and Bellion Drive, following the construction of Cockburn Coast Drive. It is expected that the land and construction of this road would be provided by the landowner.

The Draft Policy seeks to ensure that development provides a positive contribution through pedestrian-oriented uses at ground level, with consideration for non-motorised transport options. Measures include designing buildings with a focus on pedestrian and cyclist amenity and safety, while accommodating on street parking and slow vehicle speeds in certain locations.

In response to the objective for multimodal transport, the Draft Policy encourages the provision of cash-in-lieu payments for a reduction in onsite parking, and the provision of cycling end-of-trip facilities.

The Draft Policy seeks to minimise the impact of expanses of parking, and identifies that where possible parking should be located in a basement or part basement arrangement (depending on the topography of the land).

### Built Form

The Draft Policy seeks to ensure that all development takes into account and sufficiently responds to the key elements of the District Structure Plan and exhibits appropriate design outcomes. A number of criteria are provided for this purpose, including encouraging active frontages by maximising the number of windows and doors open to the street, and applying appropriate architectural treatments to avoid expanses of blank walls.

Design guidance is also set out to ensure that development reinforces the desired future character of the Cockburn Coast area. This will be achieved through the development of high quality structures of architectural and environmental merit which contribute to a lively streetscape, and which will complement developments on adjoining sites.

The Draft Policy sets out provisions for development abutting Cockburn Coast Drive and the Rollinson Road link (east of Cockburn Road), seeking development that is oriented and designed to provide an outlook to the road and Beeliar Regional Park, despite the fact that direct vehicular access cannot be accommodated.

### General Heights

It is acknowledged that the height and typology of development within the Cockburn Coast will be one of the project's most defining features. In this respect, it is important to ensure that any development that occurs within the Newmarket Precinct deals with both the designation and distribution of height across the area in a comprehensive manner.

The Draft Policy proposes the following maximum general heights, which are consistent with those set out in the District Structure Plan:

- \* Along Cockburn Road and Rockingham Road 4 storeys (and not exceeding 17m in height), with a maximum of 5 storeys (and not exceeding 21m in height) if a 3m terrace setback or loft level.
- \* For secondary streets throughout the precinct a maximum building height of 3-4 storeys (and not exceeding 17m in height).

#### Location of Landmark and Gateway Sites

The District Structure Plan makes provisions for a landmark site (up to 16 storeys), and gateway site(s) (up to 8 storeys) within the Newmarket Precinct (refer to Agenda Attachment 4).

While the District Structure Plan identifies a preferred location for the landmark site, it is silent on the location(s) of the gateway site(s) for the precinct.

The Draft Policy that was advertised for public comment proposed a single landmark site and two gateway sites. It set out the location for the landmark site and one of the gateway sites for the Precinct, as follows:

- \* The south western corner of the intersection of the future Cockburn Coast Drive and Rockingham Road is the preferred location for the landmark development as an entry statement to the project area. This is the preferred location identified for the landmark site in the District Structure Plan (refer to Agenda Attachment 4).
- \* A gateway site is to be located on the northeast side of the intersection between Cockburn Road and the future Rollinson Road extension to Cockburn Coast Drive. This road link will form one of the key entrances into the Cockburn Coast area.

While the Draft Policy made provision for two gateway sites, it only identified the location of one of these, as outlined above. The Draft Policy outlines that the intersection between Cockburn Road and the future Rollinson Road extension to Cockburn Coast Drive will form one of the key entrances into the Cockburn Coast area. It is therefore considered that the appropriate location for another gateway site in this area is on the south eastern side of the proposed Rollinson Road extension and Cockburn Road (south of the proposed gateway site identified in the Draft Policy and mapped on Agenda Attachment 6). These two sites would then form a gateway to Newmarket Precinct.

While this second site would form a gateway to the Newmarket Precinct, it actually falls outside the Newmarket Precinct (as designated in the District Structure Plan), and is located within the Emplacement Precinct. It is therefore recommended that the Draft Policy be modified to make provision for only one gateway site within the Newmarket Precinct. The second site will be identified through the

planning for the Emplacement Precinct, which is currently zoned 'Industry' under the MRS and the Scheme.

It is also recommended that the Draft Policy identify the landmark site definitively, as it is not considered that there are any other suitable sites within the Newmarket Precinct for a landmark site.

#### Provisions for Landmark and Gateway Sites Heights

The Draft Policy sets out the following height and built form specific provisions in relation to development of the landmark and gateway sites for the Precinct:

- \* The landmark site development is permitted to be up to 16 storeys (and not exceeding 49m in height).
- \* The gateway site development is permitted to be up to eight storeys (and not exceeding 32m in height).

#### Signage

Signage and other appropriate forms of advertising are accepted as elements that are integral to mixed-use locations such as the Newmarket Precinct. The Draft Policy seeks to ensure that there is not a general proliferation of signage. The acceptability of proposed signage will be based on the successful integration of signage in a manner that contributes to, and reinforces the built and streetscape environments.

#### Cost Contributions

The Draft Policy that was advertised for public comment sought to cover the requirements for developer contributions towards upgrading of infrastructure and streetscapes within the Newmarket Precinct. It included a list of the types of contributions that may be required.

This clause in the Draft Policy has been reconsidered in the context of the State Planning Policy No. 3.6 (*Developer Contributions for Infrastructure*) ("SPP 3.6"). SPP 3.6 outlines the principles that must underpin developer contributions, and on further consideration of this matter it is considered appropriate that developers are alternatively required to undertake upgrades to infrastructure as they relate to the particular proposal. This will ensure that orderly and proper planning is achieved.

It is therefore recommended that this clause in the Draft Policy (4.0) be renamed "Standards of Development", and outline that conditions will be imposed on subdivision and development within the Newmarket Precinct requiring proponents to undertake upgrades to infrastructure and streetscapes. This will typically include (where relevant) the following works as they relate to the development:



- \* streets/roads (including kerbing, draining and resurfacing)
- \* service, utility and drainage upgrades
- \* streetscape elements (such as pavement, lighting, trees, furniture)
- \* footpaths and dual use-paths
- \* traffic management devices

### Community Consultation

The Draft Policy was advertised for public comment for a period of 21 days, as required by the Scheme, from 25 May 2010 to 16 June 2010. A total of 30 submissions were received, with 28 of these from landowners and members of the community, and two from government agencies.

Of the 28 submissions that were received, 19 were objections (or submissions expressing concerns), and nine were submissions of support from people in the local area but not within the Newmarket Precinct. All of the submissions are included in the Schedule of Submissions (refer Agenda Attachment 2), and all comments have been addressed in detail.

The nine submissions of support identified that development of the Newmarket Precinct would be positive for residents of Cockburn, providing an alternative to Fremantle for coastal lifestyle activity.

The key objections that were raised (relating to the Draft Policy) are discussed below.

### Proposed Heights on Cockburn Road (4 - 5 storeys)

There were 14 objections received to the proposed heights identified for Cockburn Road, for the following key reasons:

- \* Loss of ocean views
- \* Impact on amenity
- \* Potential overshadowing.

The Draft Policy identifies heights of 4-5 storeys along Cockburn Road, which is consistent with the heights identified in the District Structure Plan for the Newmarket Precinct (refer to Agenda Attachment 4).

It is important to note that the properties on Cockburn Road within the Newmarket Precinct are currently zoned 'Mixed Business' and 'Local Centre' under the Scheme, for which there are no specific height limits currently applicable.

There are no current height restrictions under the Scheme for the 'Mixed Business' and 'Local Centre' zone, and there are also no specific height limits under the Residential Design Codes of WA ("R-Codes") for mixed-use buildings.

State Planning Policy No. 2.6 (*State Coastal Policy*) includes building height limits (Section 5.3) for urban development, but these only apply to buildings within 300m of the horizontal setback datum. The Newmarket Precinct falls outside of this area therefore these heights limits are not applicable.

This means that under the current zoning and within the current planning framework there are no specific height restrictions applicable to proposals on Cockburn Road. Development proposals would be assessed against provisions of the Scheme and the R-Codes, which include plot ratio controls. Therefore by identifying maximum heights, the Draft Policy provides a height restriction that does not currently exist.

It is noted that a number of submissions requested a reduction in the proposed height limits for Cockburn Road, however the District Structure Plan has already been endorsed with 4-5 storey heights for Cockburn Road, and it is not considered appropriate to vary the heights from those that are outlined in the District Structure Plan.

It is therefore not recommended that any modification be made to the proposed height limits of 4-5 storeys along Cockburn Road in the Newmarket Precinct.

#### Maximum Heights (in metres)

There was some concern that the actual heights proposed (in metres) are excessive for the number of proposed storeys. It is important to note that the maximum heights that have been specified in the Draft Policy are the total heights of the physical building. This includes services that may add to the building height. This has been calculated as 3.5m for each floor (floor-to-floor measurement) and an additional 3m for buildings above 12m in height, given that buildings above 12m may need to provide services such as lift over-runs, water tanks and heating/cooling equipment that need to be factored into the total height of the building.

Cockburn Road is identified as a 'mixed use' area and 'local activity node' in the District Structure Plan. One of the important objectives for the Newmarket Precinct is achieving mixed use buildings, particularly along Cockburn Road. Therefore an important design consideration is to ensure that adequate floor to ceiling heights can be accommodated to ensure the potential for commercial uses which have higher requirements for building services. The required floor to floor height (or the height of each storey) depends on the desired ceiling height for a certain use, plus the floor structure, and room for mechanical ducts and conduits, etc. If adequate floor to ceiling heights cannot be achieved then the space will not be suitable for a commercial use (or conversion to a commercial use in the future).

The Draft Policy (in conjunction with Scheme Amendment No. 82) seeks to achieve robust buildings that can accommodate changes of use, and it is considered that the proposed maximum heights are appropriate in this context.

#### Perceived inconsistencies between Draft Policy and District Structure Plan

Two submissions raised concerns regarding a perceived inconsistency between the Draft Policy and the District Structure Plan. The concern was that the proposed location of the gateway site on Cockburn Road is inconsistent with the District Structure Plan because the District Structure Plan identifies heights of 4-5 storeys for Cockburn Road in the Newmarket precinct.

The District Structure Plan sets out the general heights for the Newmarket Precinct as 4-5 storeys on Cockburn Road, and 3-4 storeys elsewhere in precinct. However, it also makes clear provision for a landmark site up to 16 storeys, and gateway site(s) up to 8 storeys (refer to Agenda Attachment 4). It is therefore assumed that wherever they are sited within the precinct, the general height limits set out will not apply and rather the height allowance for the landmark and gateway site will be applicable. If this was not the case then the landmark and gateway sites that are provided for in the District Structure Plan could not be achieved.

These two submissions also expressed concern regarding perceived ad-hoc interpretation of the District Structure Plan and lack of transparency surrounding the process.

The Draft Policy has been prepared to elaborate on the precinct character guidelines outlined in the District Structure Plan for the Newmarket Precinct (outlined in Agenda Attachment 4). The District Structure Plan made provision for landmark and gateway sites, but did not identify a preferred location for a gateway site. To prevent proposals being put forward as the gateway or landmark site(s) in locations that may be inappropriate, the City made the decision to identify a gateway site as part of the Draft Policy where it was considered appropriate.

The inclusion of this designated gateway site in the Draft Policy (clearly shown on the map sent to all landowners during the community consultation period - included in Agenda Attachment 6), was intended to provide the community with the opportunity to comment on the proposed gateway site.

#### Recommended Modifications to Draft Policy

In addition to the recommended changes outlined above, there are also some minor changes recommended that do not affect the intent of any

of the provisions, and these changes have been incorporated into the Draft Policy included in Agenda Attachment 1.

### **Conclusion**

The Draft Policy has been prepared to provide comprehensive design guidelines for development within the Newmarket Precinct, elaborating on the precinct character guidelines outlined in the District Structure Plan.

While it is acknowledged that there were a number of strong objections to the proposed building heights for Cockburn Road, it is important to note that there are no current height restrictions for this area, and the proposed heights in the Draft Policy are consistent with those outlined in the endorsed District Structure Plan.

It is therefore recommended that Council, in pursuance of Clause 2.5.2(b) of the Scheme, adopt the Local Planning Policy (Newmarket Precinct Design Guidelines) for final approval with minor modifications, as shown in Agenda Attachment 1.

### **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.

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

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.

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

N/A

#### **Legal Implications**

N/A

#### **Community Consultation**

The Draft Policy was advertised in accordance with Clause 2.5 of the Scheme. This included a notice of the Draft Policy in a newspaper for two consecutive weeks in accordance with Clause 2.5.1(a).

Letters were sent to all landowners within the Newmarket Precinct and adjacent to the Newmarket Precinct, including a map showing the proposed heights and the proposed landmark and gateway sites (map included in Agenda Attachment 6).

Extensive community consultation has also been undertaken by the WAPC in the preparation of District Structure Plan, and the purpose of the Draft Policy is to implement these outcomes.

#### **Attachment(s)**

1. Draft Local Planning Policy
2. Schedule of Submissions
3. Cockburn Coast District Structure Plan
4. Extract from Cockburn Coast District Structure Plan
5. Draft Scheme Amendment No. 82 (for information)
6. Draft Height Map - sent to all landowners during advertising period.

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

All submissioners have been advised that this matter was going to be considered at the 12 August 2010 Council meeting.

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

Nil.

- 14.2 (OCM 12/08/2010) - DEVELOPMENT APPLICATION FOR EIGHT (8) STOREY MIXED USE BUILDING COMPRISING: OFFICE FLOORSPACE, A CAFÉ, BAR/RESTAURANT, SERVICED APARTMENTS AND 18 MULTIPLE (RESIDENTIAL) DWELLINGS - LOCATION: LOTS 1 AND 2 BELLION DRIVE (CORNER COCKBURN ROAD) HAMILTON HILL - OWNER: KARRISMA PTY LTD - APPLICANT: PETER D WEBB AND ASSOCIATES (2207502) (T WATSON) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) approve the development of a eight (8) storey mixed use building including office floor space, a café, bar/restaurant, serviced apartments and multiple dwellings, on Lots 1 and 2 Bellion Drive, corner Cockburn Road, Hamilton Hill, subject to the following conditions:
  1. Development being undertaken in accordance with the approved plans and any associated information lodged as part of, or in support of the application.

2. The development being designed and documented in consultation with a qualified acoustic consultant who must certify how the development satisfies the requirements of State Planning Policy 5.4 dealing with 'Road and Rail Transport Noise'. Details of noise attenuation measures to be incorporated into the development for the purpose of addressing the policy are to be provided to the City's satisfaction prior to the issue of a building licence for the development.
3. Notification in the form of a memorial to be lodged against the Title and incorporated into the Strata Management Plan advising of the potential impacts associated with living in a mixed-use environment, including a number of larger non-residential uses to the south of the property. The memorial is to be lodged against the Title prior to any subdivision or strata titling of the subject property, the details in respect of which are to be provided to the satisfaction of the Manager Statutory Planning prior to the issue of a Building Licence for the development.
4. The submission of a Waste Management Plan for the development as required by and in accordance with the City's Waste Management Policy. The plan is to be submitted to, and approved by the Manager Statutory Planning, in consultation with the Manager Waste Services, prior to the issue of a Building Licence. The development must operate in accordance with the recommendations of the approved Waste Management Plan, to the ongoing satisfaction of the City.
5. Prior to the occupation of the bar/restaurant and café tenancies hereby approved, a Management Plan must be submitted to and approved by the Manager Statutory Planning on behalf of the City. The Management Plan should demonstrate how those tenancies will operate taking into account their location within a mixed use environment, with specific reference being made to the hours of operation, noise control (sound design measures and management) and servicing (including matters such as the disposal of general refuse and bottles). The tenancies must operate in accordance with the approved Management Plan to the ongoing satisfaction of the City.
6. The size of the bar/restaurant being limited to a capacity equivalent to the amount of parking allocated to this tenancy. Fifty five (55) parking bays are deemed to be allocated to this tenancy based on its size and use for restaurant purposes. The use of the tenancy for bar purposes requires the commensurate reduction in the

amount of seating allocated to restaurant use taking into account the relevant parking requirements of Town Planning Scheme No.3 (restaurant use: one (1) bay required for every four (4) seats or people accommodated/bar use: one (1) bay for every 2m<sup>2</sup> net lettable drinking area).

7. The capacity of the café being limited to 165 seats.
8. Details regarding the location, allocation and availability of car parking bays to the specific uses and tenancies on-site are to be provided to the City's satisfaction prior to the issue of a building licence for the development, to be later reflected on the strata plan/s for the development.
9. No more than two (2) parking bays being provided per multiple (residential) dwelling.
10. All car parking and vehicle access points complying with the minimum requirements of the applicable Australian Standard and the Building Code of Australia (including disabled parking), the details of which are to be submitted to and approved by the City prior to the issue of a Building Licence..
11. Walls, fences and landscape areas are to be truncated within 1.5 metres of where they adjoin vehicle access points where a driveway and/or parking bay meets a public street or limited in height to 0.75 metres.
12. Prior to the commencement of development, a scheme detailing the following must be submitted to and approved by the Manager Statutory Planning on behalf of the City, in consultation with Main Roads WA and the Department of Planning.
  - a) The modification of the intersections of Cockburn Road and Bellion Drive, and Cockburn Road and Rollinson Road, to provide right turn pocket lanes from Cockburn Road into Bellion Drive and Rollinson Roads respectively.
  - b) The provision of a median island in Bellion Drive where it meets Cockburn Road.

All costs associated with the provision of these improvements must be borne by the developer, and all works must be completed prior to the occupation of the development.

13. Prior to the issue of a Building Licence, a scheme for the provision of covered bicycle stands to cater for the bicycle parking and storage needs of users/visitors to the building, must be submitted to and approved in writing, by the Manager Statutory Planning. The standard of this provision should reflect the requirements of Table 2 and 3 of the City of Cockburn Town Planning Scheme No. 3. The approved bicycle parking stands must be made available for use prior to the occupation of the building, and thereafter retained for use to the ongoing satisfaction of the City.
14. In the interest of design consistency, all works proposed within the road reserve of Cockburn Road shall be the subject of detailed consideration by the City in consultation with the Department of Planning and Main Roads WA.
15. No development occurring beyond the southern boundary of the application site i.e. within the Primary Regional Road reservation.
16. Prior to the issue of a Building Licence, a comprehensive materials schedule must be submitted to and approved by the Manager Statutory Planning on behalf of the City. The schedule is to include details of the colour and finish of all external materials proposed for use across the development. The development must be constructed in accordance with the approved schedule.
17. Car park ventilation grills/panels are to be suitably located relative to the surrounding public domain taking into account the prominence of the subject property. Details of the grills/ventilation panels are to be submitted for the approval of the Manger Statutory Planning on behalf of the City prior to the issue of a Building Licence.
18. All service areas (clothes drying areas and bin stores) and service related hardware, including antennae, satellite dishes and air-conditioning units, being suitably located from public view and/or screened, the details of which are to be provided to the satisfaction of the Manger Statutory Planning on behalf of the City, prior to the issue of a Building Licence..
19. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS 4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.



20. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia. The design is to be certified by a suitably qualified practicing Engineer and/or hydraulic design consultant or the like, and designed on the basis of a 1:100 year storm event and submitted, to the satisfaction of the Manager Statutory Planning, prior to the issue of a Building Licence..
21. Any retaining wall(s) are to be constructed in accordance with a qualified Structural Engineer's design.
22. Prior to the issue of a Building Licence, application being made to the Western Australian Planning Commission to amalgamate the subject lots into one lot, on one single Certificate of Title.
23. Prior to the issue of a Building Licence, a Construction Management Plan must be submitted to the City for the approval of the Manager Statutory Planning. This Management Plan must detail the management of the following matters:
  - a) access to and from the site;
  - b) the delivery of materials and equipment to the site;
  - c) the storage of materials and equipment on the site;
  - d) the parking arrangements for contractors and subcontractors; and
  - e) any other matters likely to impact on the surrounding properties.
24. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
25. No building or construction related activities associated with this approval causing noise and/or inconvenience to neighbours between the hours 7.00 p.m. and 7.00 a.m. Monday to Saturday, and not at all on Sunday or Public Holidays.

#### FOOTNOTES

1. The application has been determined on the basis of the plans and information provided to City for assessment.
2. This is a Planning Approval only and does not remove the

responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, with the requirements of the City of Cockburn Town Planning Scheme No. 3, and/or with any other relevant legislation. Prior to the commencement of any works associated with the development, a Building License may be required.

3. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, the City's Statutory Planning Services should be consulted.
4. The documentation and construction of a development that achieves high environmental performance standards in accordance with the sustainability aspirations of the Cockburn Coast District Structure Plan is encouraged.
5. With respect to condition 3, the Memorial should state as follows (or similar): This site is situated within Cockburn Coast District Structure Plan area. The vision for Cockburn Coast includes an integrated mix of uses. In several instances, this may involve the continued use of land for a range of existing non-residential purposes. Residential amenity, therefore, may be affected by the mixed-use nature of the location, including noise and other impacts.
6. With respect to conditions 4 and 5, the Council's objective is the development of a successful mixed use building, whereby the proposed non-residential uses (bar/restaurant and café) can successfully co-exist with the serviced apartment and residential uses on-site, and those in the vicinity. To this end, the Council is keen to ensure that every effort to minimise the potential impact of the different uses on one another is made.
7. With respect to conditions 17 and 18, given the prominent location of the subject land, the placement of services and related hardware will require specific attention at working drawings stage. With respect to items such as air conditioning condenser units, a generic approach to screening such units may be necessary (through a consistent screening element in balustrades for example).
8. With respect to condition 23-25, the Council's objective is to ensure the construction of the development is undertaken in a manner that has minimal impact on adjoining and adjacent landowners, and the local community generally.

9. The development is to comply with the requirements of the Building Code of Australia. In this regard, it is recommended the City's Building Services should be consulted prior to the commencement of working drawings.
  10. The development is to comply with the noise pollution provisions of the Environmental Protection Act 1986, and more particularly with the requirements of the Environmental Protection (Noise) Regulations 1997.
  11. If the development the subject of this approval is not substantially commenced within a period of three (3) years, or such other period as specified in the approval after the date of the decision, the approval shall lapse and be of no further effect.
  12. Where a Planning Approval has so lapsed, development shall not be carried out without the further approval of the Council being sought and obtained.
- (2) issue a Notice of Determination for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
  - (3) advise the applicant and submissioners of the Council's decision accordingly.

## COUNCIL DECISION

### Background

Council at its 13 August 2009 meeting resolved to *defer its determination of the proposed development to a 16 storey mixed use building on Lots 1 and 2 Bellion Drive, corner Cockburn Road, Hamilton Hill to allow the landowner to discuss the concerns raised in the Officer's report with the City and the Department of Planning.*

The report presented to Council in August 2009 recommended the proposal before the City be refused on grounds relating to: the height of the proposed building at 16 storeys; issues pertaining to access, notably the absence of such from the Primary Regional Road adjoining to the south; issues pertaining to the servicing (functionality) of the development; and a range of community concerns regarding the proposal.

Prior to reporting on the development application, 78 letters were sent to property owners either adjoining or in the vicinity of the subject site. In response, 26 submissions were received. Of these, eight (8) raised no objection to the proposal. The remainder, however, objected to the proposal (18 submissions). Submissions were also received from Tourism Western Australia and the WAPC/Department of Planning following referral to those State Government agencies.

The overwhelming concern raised via consultation related to the height or scale of the proposed development (16 storeys). In that context, the proponent challenged the content of what was then the draft Cockburn Coast District Structure Plan, claiming the subject site deserved 'landmark' status.

The now adopted Cockburn Coast District Structure Plan refers to a hierarchy of building heights within the Structure Plan area, including 'landmark' and 'gateway' sites on which buildings of greater height can be developed. Using the principle of defining particular sites or locations with structures of greater height, the proponent formed the view that the subject site was landmark in nature, and therein appropriate for development with a 16 storey building.

As identified in the District Structure Plan; however, the landmark site for the subject location (Newmarket Precinct) is *encouraged on the eastern corner at the high point that forms the gateway to the project area from the east*. The view remains though, that the subject site is significant in the context of the location and the broader development of Cockburn Coast. If the site is not suitable for development with a landmark building, it remains suitable for development with a 'gateway' building. The District Structure Plan refers to the establishment of gateway buildings *at major entrance points in the development area*.

#### Existing Situation

The land subject of this application comprises two (2) lots situated on the south-east corner of Cockburn Road and Bellion Drive in Hamilton Hill. At present a number of dilapidated non-residential buildings occupy the lots. Access to the buildings is gained from Bellion Drive.

Adjoining to the east, the land shares a common boundary with a lot occupied by 10 three (3) storey grouped dwellings. Developed in recent years, this development is representative of the increasing mix of development occurring in the locality. Other development that contributes to the character of the mixed-use nature of the area includes residential units on the north side of Bellion Drive, the adjacent Craft Decor site, and further mixed development to the north.

The southern side of the application site abuts land reserved under the Metropolitan Region Scheme (MRS) for 'Primary Regional Road' purposes. This land is owned by the Western Australian Planning

Commission (WAPC) and is identified as a primary access route into the northern part of Cockburn Coast.

### **Submission**

The revised proposal before Council is for an eight (8) storey building. In detail, the following is proposed:

#### Ground Floor Level (adjacent to Cockburn Road)

- An office tenancy (411m<sup>2</sup>) on the south west corner of the site;
- A bar/restaurant including 'back-of-house' floor space (kitchen and amenities); and
- A café, including back-of-house floor space.

A Cockburn Road pedestrian entry point extending to a lobby serving the upper level uses is also proposed at the ground floor level.

#### Upper Ground Floor Level (Level 2)

- Serviced apartment lobby and seven (7) serviced apartments; and
- Residential lobby.

#### Levels 2-5

- 48 serviced apartments (55 serviced apartments in total).

#### Levels 6-8

- 18 residential apartments (multiple dwellings).

Parking for the development is proposed across three (3) levels, including basement and part-basement levels. The upper parking level is in the form of a deck and includes a port cochure arrangement that addresses the serviced/residential apartments lobby (level 2I). In total, 201 parking bays are proposed. Access to the parking areas is proposed from two (2) points on Bellion Drive, one of which will serve the lower basement parking levels, the other serving the deck level.

In support of the proposal, the applicant states the following:

*The subject site is designated 'Mixed Use' within the Structure Plan area. It is recognised this classification "has been strategically placed throughout much of the project area, in order to allow a range of compatible uses to co-locate adjacent to one another, and vertically in individual buildings." The Structure Plan suggests that it is particularly important to allow a mix of uses along the full length of Cockburn Road. The Structure Plan also recognises that it is important to ensure that uses proposed along Cockburn Road contribute, "... to a continuous active street frontage". Further, ground floor commercial activities*

*should be mandatory and are to be applied, "... in key strategic locations such as key intersections ..."*

*The Structure Plan suggests that "the landmark site" within this precinct might be permitted to be up to 16 levels, but there is an argument supporting the proposed development of the subject site to the height as proposed as this site is being recognised as an iconic site, forming the northern gateway into the Structure Plan area, on Cockburn Road. As the site has a direct interface with the proposed Rollinson Road extension (a 'red' road in the MRS), it is important that this site be treated in a way which defines the entry into the precinct from both the east and the north in the manner proposed by this development.*

## **Report**

The revised proposal has been assessed against the relevant requirements of the City's Town Planning Scheme No. 3, the R-Codes, the Newmarket Design Guidelines and the Cockburn Coast District Structure Plan. The proposal has also been considered against the content of the current amendment to the Scheme (Amendment No.82) dealing with the use of land within the Newmarket Precinct.

As a preface to the following sections, it should be noted the revised proposal is supported and is recommended for conditional approval by Council. The proposed building has been reduced significantly in terms of its height to a level that is commensurate with the planning controls guiding such for the land in question and the precinct within which it sits. The proposal also retains a relevant and positive mix of use and is suitably designed, particularly at street level. To this extent, the proposal espouses the objectives for the location and is representative of the future development of the broader Cockburn Coast.

The considerations to follow cover key aspects in the assessment of the application.

### Use of Land and Density

The subject land is zoned Mixed Business under Town Planning Scheme No. 3. The uses proposed as part of the development are either 'Permitted' (office, bar/restaurant and cafe) or 'Discretionary' (tourist accommodation and residential) within a Mixed Business zone. Under Amendment No. 82, the same scheme classifications will in essence apply to the uses proposed. The uses are also considered generally acceptable under the Cockburn Coast District Structure Plan. In this regard, they are consistent with the developing (and expected) mixed use character of the locality as described.

With respect to density, 18 multiple dwellings are proposed (20 permitted).

## Height

There are no building height controls in the City's scheme for the subject location. The control of building height is guided by the Cockburn Coast District Structure Plan and the Newmarket Precinct Design Guidelines. The Design Guidelines seek to ensure new development within the Newmarket Precinct has regard to the District Structure Plan.

Under the Cockburn Coast District Structure Plan, building height on a gateway site *is permitted to be up to 8 levels*. As stated in the Structure Plan *Gateway buildings will be located at major entrance points in the development area*. The intersection of Rollinson Road, to be extended from Cockburn Coast Drive to Cockburn Road, represents a major entrance point into the northern part of the Structure Plan area. Therefore, the proposed building at a height of 8 storeys accords with the provisions of the District Structure Plan.

The proposed building height also accords with the Newmarket Precinct Design Guidelines. As stated in the Guidelines, *A gateway site is to be located on the northeast side of the intersection between Cockburn Road and future Rollinson Road extension to Cockburn Coast Drive. This road link will form one of the key entrances into the Cockburn Coast area*. In addition to being acceptable in terms of building height, the current proposal is designed to deliver in respect of a range of other specific development criteria, criteria considered fundamental to the 'gateway' status of the site.

The provisions seek to ensure all aspects of a gateway development recognise and respect the significance of such, and include:

- A limit in building height to eight (8) storeys and not exceeding 32 metres).
- The suitability of the development taking into account the desired streetscape for the location. In this regard, the proposed development will signify the important intersection of Rollinson and Cockburn Roads with 'mainstreet' activation at the ground floor level (particularly along Cockburn Road as required by the District Structure Plan).
- A responsive built form. The building stands to be 'urban', animate and interesting at both lower and upper levels. This will occur via the mix of uses within, being active and lifestyle in nature adjacent to Cockburn Road, with a mix of tourist and permanent accommodation above. The outwardly facing and largely transparent elevations proposed for the various frontages of the development also contribute to a responsive built form.

### Functionality

The function of a development includes considerations such as: access, parking provision, traffic movement and servicing. Taking into account several notable concerns regarding these matters and the original proposal, the proponent has focussed on ensuring all considerations relating to functionality are addressed. As a result, the revised proposal is deemed to be suitably functional.

### Access, Traffic Volumes and Movement

Vehicular access to the development via Bellion Drive is supported. Whereas previously 282 bays were proposed to be accessed via Bellion Drive, this has been reduced to 202 bays.

To assist with the assessment of the application a traffic report has been provided by the proponent. Prepared by ARRB Consulting, the report provides an appreciation of traffic movements likely to be generated by the development and how these will integrate with volumes (current and proposed) on the local road network. Based on the information provided, the development will integrate into the local road network.

The City's engineering team concurs with the conclusions outlined in the traffic report subject to the requirement for a range of remedial improvement works in Bellion Drive and Cockburn Road. The purpose of these works is to achieve a higher degree of safety and efficiency in traffic movements in the vicinity of the site taking into account and including the traffic generated by the proposal itself. The condition requiring these works recognises the role of Main Roads WA in determining suitable outcomes to be implemented.

All works to be undertaken are to be constructed prior to the occupation of the development, and the costs associated with them borne by the developer.

### Parking Provision

Based on the provisions of Town Planning Scheme No. 3, 211 parking bays are determined to be required, whilst 201 bays are proposed. The minor shortfall in bays (10) is supported on the basis that a proportion of the patronage associated with the 'food and beverage' activities at the ground floor level will come from within the development i.e. occupants of the serviced and/or residential apartments. A percentage of patronage will also come from properties in close proximity (walkable distance).

To ensure that the parking provided is suitably managed to meet the needs of the various uses located within the development, a number of conditions are recommended. These include a restriction on the



capacity of the bar/restaurant, the size of which will be linked to the actual number of car parking bays available for that particular activity, and another that requires the provision of dedicated visitor parking for the residential apartments.

The rates applied in the calculation of parking for the development are:

- office floor space: one (1) bay for every 50 square metres of gross floor area;
- bar/restaurant: one (1) bay for every four (4) seats or four (4) people accommodated and/or one (1) bay for every two (2) square metres of net drinking area;
- café: one (1) bay for every four (4) seats or four (4) people accommodated;
- one (1) bay for each single bedroom serviced apartment, or 1.5 bays for every two bedroom serviced apartment; and
- a maximum of two (2) bays for each residential apartment (multiple dwelling).

#### Servicing (Waste Management)

It is reasonable for the City to be satisfied in advance of development that what is proposed can be successfully serviced. Whilst this did not occur in respect of the original proposal, the project architect has spent considerable time with the City's Waste Manager determining the most effective and appropriate way to service the revised proposal.

In summary, the following is proposed based on the size and manoeuvrability of the City's waste management vehicles, including the new hybrid vehicle capable of serving basement levels:

- bin storage in the ground floor basement serving the active ground floor uses (restaurant/bar and café); and
- bin storage at the upper ground floor level (adjacent to Bellion Drive) serving the serviced apartments and residential dwellings).

Access for waste removal to both levels will be in a forward direction from Bellion Drive, and has been designed in a manner that will enable forward moving egress from the site.

#### Relationship to Adjoining Development

The land subject of the application shares one common boundary with adjoining development. Adjoining to the east on retained land is 10, three storey grouped dwellings. Three of these dwellings are north facing, addressing Bellion Drive in a traditional manner. The remaining seven dwellings are orientated north, north west. None of the group of dwellings is orientated to the west - the location of the proposed development, whilst two (2) only abuts the common boundary.

The interface of the proposed development to the two (2) dwellings abutting the common boundary consists of the upper parking deck, port cochure and lobby providing access to the serviced and residential apartments. The deck will be situated approximately five (5) metres below the height of the retaining wall and fence dividing the two properties, purposely achieving an appropriate degree of separation.

The building itself will be setback from the common boundary approximately 27.5 and 30.5 metres (to the balconies and façade respectively). These distances exceed that required by the R-Codes (approximately 20.5 metres) for the top three levels of residential development. The setbacks generally, are considered consistent with what is typically required for the 'urban' development anticipated in association with the development of the Cockburn Coast.

The disparity in height between the top of the grouped dwellings and the proposed building is approximately 10 metres. That is, the proposed building is approximately three (3) storeys higher than the adjoining dwellings.

#### Consultation

As mentioned earlier, consultation of local residents and a number of commercial property owners took place in respect of the original proposal. In total, 78 letters were sent out by the City. In response, 26 submissions were received. Of the submissions received, eight (8) raised no objection to the proposed development. The remainder, however, objected to the proposal (18 submissions).

More recently, 83 letters were sent out in respect of the revised proposal. In response, 18 submissions were received, nine (9) of which raised no objection or supported the proposal. The remaining eight (8) submissions objected to the proposal. Four of these were received from property owners adjoining to the east. Three of the remaining four submissions opposing the development were received from persons living some distance from the site (in South Fremantle and Cottesloe).

The main concerns raised in objection to the proposal are listed, and commented upon, below:

- Building height - the proposed building is too high.

*Comment.* The matter of building height is covered above. With respect to this concern, confusion seems to exist about the manner in which the District Structure Plan deals with building height. The Cockburn Coast District Structure Plan very clearly states that gateway buildings are permitted to be up to eight (8) storeys and *will be located at major entrance points in the development area.* The intersection of

Rollinson and Cockburn Roads is a major entry point to the northern part of Cockburn Coast.

- Building height – the proposed building is ten (10) storeys in height, not eight (8).

*Comment:* The claims the proposed building is ten (10) storeys in height are incorrect. The sections provided with the application plans show a building that is primarily eight (8) storeys in height. In this regard, it is important to note the 3-4 metre rise across the site. The basement parking levels, particularly at the centre of the site, are largely beneath the relative natural ground level. Due to the topography of the site and the need to adjust levels relative to the particular frontages of the property, the southern elevation does show a nine (9) storey building for approximately half the adjoining Primary Regional Road frontage. The remaining elevations, however, are primarily eight (8) storeys as mentioned (to Cockburn Road and Bellion Drive). This takes into account the setback between the ground and upper floors and relative ground levels across the site.

- Traffic and servicing - the proposal will result in traffic issues and will be difficult to service.

*Comment:* Traffic and servicing has been covered above.

- Impact of noise from the deck.

*Comment:* The disparity in height between the parking deck and adjoining residential dwellings is intentional. Additionally, and for the purpose of addressing worst-case predicted noise levels along the eastern boundary, a lightweight roof system is proposed to be constructed over the parking bays along this edge of the site. This was recommended by an acoustic consultant engaged to review this aspect of the development, and is accepted as an appropriate solution by the City's Health Services team.

- Overshadowing/overlooking - the proposed building will result in these impacts.

*Comment:* The proposed building will not result in overshadowing of the adjoining property to the east at midday on 21 June, the standard for assessing impact on solar access. The impact of shadow for the majority of time will be over the adjoining Primary Regional Road reservation. Whilst overlooking might be possible, all levels of the building adjacent to the eastern side boundary are setback an adequate distance (compliant with the R-Codes in the case the residential levels 6-8).

- Social issues and Anti-Social Behaviour - the proposal will result in anti-social behaviour and issues such as noise.

*Comment:* The City requires a detailed Management Plan in respect of mixed-use proposals to ensure all activities suitably co-exist on-site. The Management Plan will address matters including: the hours of trade of food and beverage establishments, permissible entertainment, delivery and waste disposal times, and the management of patron behaviour.

- Conflict/impact of the proposal on existing land uses, notably existing long term non-residential uses.

*Comment:* The City shares this concern and recognises the need for future use and development of land to take into account existing use and development. There are several means (memorials on Title, purchaser information packages) to ensuring future residents are informed of juxtapositions to non-residential development that may impact on typical expectations in terms of residential amenity.

#### Department of Planning

The Department advises *The DA is a positive step forward by the proponent in addressing some of the issues identified with the previous DA for the subject site, and meets some of the objectives set out in the Cockburn Coast District Structure Plan and the draft Newmarket Precinct Policy.*

Specific points raised by the Department in respect of the proposal include:

- The development of the Cockburn Road frontage, specifically the detailed design of works proposed at the front of building within the road reserve.

The proposal clearly represents an indicative mainstreet environment for Cockburn Road. Noting this section of frontage will be the first to be redeveloped, however, in accordance with the broader objectives of the Cockburn Coast location, a detailed planning exercise involving all relevant stakeholders is recommended.

- The impact of noise from surrounding noise sources on the proposed development, including the proposed extension of Rollinson Road from Cockburn Coast Drive immediately adjoining the southern boundary of the subject property.

In this regard, a detailed acoustic assessment of the proposal taking into account both current and likely noise levels expected at this intersection is recommended. Expected outcomes of an assessment will include recommendations regarding the extent to which residential uses need to be suitably protected from

excessive noise via the incorporation of attenuating measures in the fabric of the building.

- Sustainability. The Department states that as the proposal will be the *first project to be undertaken under the Cockburn Coast banner ... the proponents should be encouraged to apply high environmental performance standards to the building to achieve sustainability aspirations outlined in the Cockburn Coast District Structure Plan*. A footnote to this effect is recommended to be included in the approval.

## **Strategic Plan/Policy Implications**

### **Demographic Planning**

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

### **Governance Excellence**

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

### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

## **Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect of the Council's determination, there may be a cost to be borne by the City (out of the existing operational budget).

## **Legal Implications**

Town Planning Scheme No. 3.

## **Community Consultation**

Consultation was undertaken as detailed above. A copy of the application was also referred to Tourism Western Australia and the WAPC/Department of Planning.

## **Attachment(s)**

1. Location Plan
2. Application Plans and Elevations
3. Schedule of Submissions
4. Response from the DoP

### Advice to Proponent(s)/Submissioners

The applicant and submissioners have been advised the revised proposal is to be considered at the 12 August 2010 Council Meeting.

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

Nil.

#### 14.3 (OCM 12/08/2010) - PROPOSED 'TAVERN' - LOCATION: LOT 6 (NO. 103) HAMMOND ROAD, COCKBURN CENTRAL - OWNER: MR WALTER LENZ - APPLICANT: MR WALTER LENZ (5513240) (M SCARFONE) (ATTACH)

##### RECOMMENDATION

That Council:

- (1) approve the application for a tavern at Lot 6, (No. 103) Hammond Road, Cockburn Central, subject to the following conditions and footnotes:

##### CONDITIONS

1. Prior to commencement of the development a noise management plan is to be submitted detailing measures that will be undertaken to ensure noise levels are kept within levels prescribed in the *Environmental Protection (Noise) Regulations 1997*. The plan is to be prepared by a suitably qualified consultant and is to include:
  - sound proofing measures used in the design and construction of the development;
  - predictions of noise levels;
  - control measures to be undertaken (including monitoring procedures); and
  - a complaint response procedure

All noise attenuation measures, identified by the plan or as additionally required by the City, are to be implemented prior to occupancy of the development or as otherwise required by the City and the requirements of the plan are to be observed at all times.

2. The preparation and submission of a detailed landscaping plan, dealing with amongst matters, landscaping (both soft and hard elements) intended for the overall Tavern site.

3. Landscaping is to be installed, reticulated and / or irrigated in accordance with the approved plan and maintained thereafter to the satisfaction of the City. The landscaping shall be implemented during the first available planting season post completion of development. Any species which fail to establish within a period of 12 months from planting shall be replaced to the satisfaction of the City.
4. Where a driveway and/or parking bay abuts a public street, associated walls, fences and / or adjacent landscaping areas are to be truncated within 1.5 metres or limited in height to 0.75 metres.
5. A Waste Management Strategy shall be submitted to and approved in writing by the City, prior to the issue of a Building Licence. This Strategy should have regard to Council Policy SPD9 'Waste Minimisation, Storage and Collection'. The use must, once operational, take place in accordance with the recommendations of the approved Waste Management Strategy, to the ongoing satisfaction of the Manager Statutory Planning.
6. All waste and recycling materials must be contained within bins. These must be stored within the buildings or within an external enclosure located and constructed to the satisfaction of the City's Manager Environmental Health Services. The external enclosure must be and of an adequate size to contain all waste bins, at least 1.8 m high, fitted with a gate and graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. The minimum provisions for internal bin storage is a concrete wash-down pad of at least 1m<sup>2</sup> graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. This can be centrally located within the development.
7. A temporary site access plan being submitted to and approved by the City prior to the issue a Building Licence.
8. Prior to the issue of a Building Licence, a Contaminated Land Survey should be undertaken to identify whether there is any contamination on the site. This should be undertaken by a qualified Environmental Consultant, and if contamination is found it must be remediated in accordance with Department of Environment & Conservation Contaminated Sites guidelines prior to the commencement of any site works.
9. Prior to the issue of a Building Licence, details of the materials proposed to be used in the development,

including their colour and finish, shall be submitted to the City for the approval of the Manager Statutory Planning. The development shall thereafter be constructed strictly in accordance with the approved materials schedule.

10. Prior to the occupation of the building (the subject of the approval), the 85 parking bay/s, driveway/s and points of ingress and egress shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of the City.
11. Prior to the issue of a Building Licence, details outlining the provision of bicycle parking for visitors to the development shall be submitted to the City for the approval of the Manager Statutory Planning. The bicycle parking facilities thereby approved shall be made available for use prior to the development becoming operational, and they shall be thereafter retained in perpetuity.
12. All service areas and related hardware, including antennae, satellite dishes, air-conditioning units and bins, being suitably located from public view and/or screened, the details of which are to be provided for the approval of the Manager Statutory Planning prior to the issue of a Building Licence.
13. The development site must be connected to the reticulated sewerage system of the Water Corporation before commencement of any use.
14. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
15. No building (or related) activities associated with this approval causing noise and/or inconvenience to neighbours being carried out after 7.00 p.m. or before 7.00 a.m., Monday to Saturday, and not at all on Sunday or public holidays.
16. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.
17. All stormwater being contained and disposed of on-site.



18. All stormwater drainage shall be designed in accordance with the latest release of the document entitled "Australian Rainfall and Runoff" produced by the Institution of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. See City's specification, enclosed. This is to be provided at the time of applying for a building licence.

#### FOOTNOTES

1. This is a planning approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council, or with any requirements of the City of Cockburn Town Planning Scheme No. 3. Prior to the commencement of any works associated with the development, a building license may be required.
2. In addition to those issues required to be addressed as a component of Condition 3, the landscaping plan shall have regard to the City's requirements for landscaping for commercial development as indicated by 5.9.2 of Town Planning Scheme No.3. The applicant is advised to liaise with the City's Parks and Environment Services prior to lodgement of the landscaping plan to ensure the provision of appropriate species for the location.
3. With reference to Condition 10, the 85 parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the relevant Australian Standards for off street car parking unless otherwise specified agreed by the City.
4. If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.
5. The development is to comply with the noise pollution provisions of the *Environmental Protection Act 1986*, and more particularly with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
6. The applicant is advised that the City proposes to undertake a package of improvement measures to realign the Hammond Road carriageway to the front of the subject site. This will facilitate the creation of a new four way intersection at the junction of Hammond Road with Beeliar Drive. A portion of the property subject of this

- approval will be required in the future to enable the improvement works to take place.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
  - (3) advise the applicant of the Council's decision.

**COUNCIL DECISION**

**Background**

The current application was submitted to the City on 14 January 2010, and is the third such application submitted for the development of this site as a Tavern, planning approval being previously granted under delegated authority in May 2003, and renewed in May 2005.

The detailed plans now submitted are identical to those previously approved in 2003 and 2005.

Zoning:	MRS:	Urban/Other Regional Road Reserve
	TPS No. 3	Light and service Industry/Other Regional Road Reserve
Proposed Land use:	Tavern	
Lot size:	2.02 HA	
Use class:	P	

**Submission**

The proposed development incorporates: a public bar (10 m<sup>2</sup>), a lounge bar (62 m<sup>2</sup>), a courtyard (112 m<sup>2</sup>), a beer garden (126 m<sup>2</sup>), a drive through bottle shop (163 m<sup>2</sup>), various back of house facilities including kitchen and coolroom, male, female and universal access amenities and 85 on-site car parking bays. While the public bar will be a standing area, seating will be provided in the lounge bar, dining area, courtyard and beer garden and food will be served in each of these locations.

The proposed tavern is designed to reflect a Tudor theme, this being a design trait of other Taverns under the applicants control and located elsewhere within the metropolitan area. To that end, it is proposed to

accommodate the various elements of the Tavern business within one single storey building. This building will be of traditional construction and appearance, and will incorporate the use of rendered and feature brickwork with timber panelling detail, housed under an over height pitched tiled roof, typical of the Tudor period.

Access to the site is currently taken from an unconstructed road which connects to Hammond Road. This will continue to be the case with access to the new tavern being aided by the creation of a longer access leg from the unmade road, which is to be constructed to the specifications of the City.

Car parking for 85 vehicles is provided within a car parking area that wraps around the northern and eastern sides of the proposed Tavern building. This car parking area is complemented by landscaping throughout.

In addition to landscaping within the car park area, it is proposed to provide a dedicated area of landscaping to the front of the proposed Tavern, between it and the realigned Hammond Road north. As well as providing an important landscaped setting for the development, this area will also be used as a beer garden.

## **Report**

The main issue for consideration in determining this proposal relates to whether the development of the site for a Tavern is acceptable in principle in land use terms, in accordance with the provisions of the scheme, and if so whether it can be accommodated without detriment to the general development provisions of the Scheme.

### Town Planning Scheme No. 3

Within the Light and Service Industry Zone, the proposed Tavern Use, inclusive of the restaurant and bottle shop component, is defined as a 'P' use under the provisions of the scheme, i.e. a use permitted by the Scheme providing that it complies with the relevant development standards and requirements of the Scheme'.

### General Development Requirements

Part 5 of the scheme outlines the requirements for development across the City. Clause 5.9 deals specifically with the requirements for commercial and Industrial uses. The development requirements for these uses are split into five main components, these being, building setbacks, amenity, convenience and functionality and car parking.

### Building setbacks

Clause 5.9.1(b) states, 'a building shall be setback from boundaries or erected on boundaries so that the impact on the use and amenity of adjoining buildings is minimised and the scale and bulk of the buildings is compatible with the streetscape'.

The proposed building is considered to be of an appropriate scale for the 'Light and Service Industry' zone with overall wall and roof heights which are far less than that generally expected in this zone. The 'Tudor' style ensures that the proposal presents a highly articulated building form across all elevations.

The proposal presents a minimum front setback (western boundary) to the realigned Hammond Road alignment of 7.36 metres with this area proposed to be partly landscaped and partly furnished to accommodate the beer garden. The northern portion of the lot will be used to accommodate vehicle access into the site and the car parking associated with the development. Importantly, the setback to the 'Residential' zoned area to the east is approximately 150 metres providing ensuring that any the proposed 'Tavern' will not have an impact in terms of bulk and scale.

### Landscaping

The scheme requires that a minimum of 10% of the total lot area or the area subject of the application be dedicated to landscaping purposes. Further, the scheme provisions state that the landscaping on the lot shall have a minimum width of 1.5 metres and be provided in areas of not less than four square metres.

In this regard the applicant proposes a total landscaped area of 760 m<sup>2</sup> which represents 15% of the site and as such exceeds with the minimum scheme provisions.

While the total landscaping provided complies some areas of the proposed landscaping to do not comply with the minimum 1.5 metre width required by the scheme, in particular with regard to the area in front of the 11 car parking bays provided adjacent to the realigned Hammond Road. While the minimum width is not met the landscaping widths provided in this area are likely to average well above this and as such the variation is supported.

Given that detailed landscaping plan has not been provided, a condition relating to the provision of a landscaping plans has been recommended as a part of this report (see condition 3).

### Amenity

Essentially Clause 5.9.3 of the scheme requires that new buildings are designed in a fashion which ensures they complement the streetscape and do not negatively impact on surrounding properties. As indicated above, the proposed building is setback from all boundaries in such a way that it will not impact on adjoining property owners. In addition a large expanse of landscaping ensures that the development will be seen in a landscaped setting, and this will complement the locality.

### Convenience and Functionality

Clause 5.9.4 is particularly concerned about ensuring development is designed so that it is convenient for those who use it. Located on the corner of the realigned Hammond Road and Beeliar Drive intersection with access to the subject site occurring from Hammond Road, the proposed Tavern will benefit from high levels of exposure and be serviced by roads which have been designed to cater for large volumes of traffic. Prior to the realignment of Hammond Road, visitors will access the subject site via a temporary crossover and driveway, details of which shall be provided to the City's satisfaction prior to the issue of a building licence.

The subject site is also accessible via various public transport (bus) services running through the area, linking it to Cockburn Central railway station to the east and Fremantle and surrounding suburbs to the west. Further the proposed development will be within walking distance for residents to the east and south of the development.

In addition to being accessible from the surrounding suburbs, the proposed site plan allows for safe and convenient vehicle and pedestrian movements across the site. A waste management plan will be provided prior to the issue of a building licence (see condition 6) ensuring that storage and waste disposal are dealt with appropriately and convenient for all users. The proposed development is considered to be convenient and functional for all users and as such Clause 5.9.4 is considered to be satisfied.

Part of the subject site is zoned "Other Regional Road", with the long term planning for the area being that Hammond Road will be realigned to facilitate the creation of a new four way intersection, where it meets Beeliar Drive. The realignment of the Hammond Road intersection will require the acquisition of part of the subject lot. This highway improvement is acknowledged within the 'Plan for the District', and the landowner has indicated that he will sell the land portion necessary to facilitate its creation. It is proposed that a footnote be attached to this approval in respect of this issue.

In the interim, it is therefore important to ensure that the details of the current planning application do not prejudice the ability to provide the

carriageway realignment or intersection improvements. To that end a revised site plan has been provided which indicates the City's land requirements and shows the revised Hammond Road alignment where it affects the subject lot. In addition, more comprehensive floor plans and elevations, a redesign of the proposed car parking layout and further information about the operation of the proposed tavern have been provided by the applicant at the request of Council officers. It is concluded that the details provided demonstrate that the site can be developed without prejudice to the highway improvements outlined.

The co-operation of the applicant in this regard is indicative of his willingness to work with the City in ensuring the improvement measures within Hammond Road take place. The road improvements will clearly deliver some business advantages to him in terms of improved and direct access to the tavern, as well as the obvious benefits that will accrue from improved visibility of the business on Hammond Road itself.

#### Vehicle Parking

The vehicle parking requirement for the proposed 'Tavern' has been assessed in accordance with Table 3 of the scheme. As a part of the submission the applicant was required to provide a coloured site plan which indicates the areas in which seating is to be provided and those areas where patrons will be standing. A parking assessment was then undertaken. The seated areas were assessed against the restaurant provisions of Table 3 (1 car bay per four seats) and the standing area calculated at 1 bay for every 2 m<sup>2</sup> of drinking area, resulting in a total of 94 bays being required. This approach is consistent to that taken in assessing the 'Tavern' at the corner of Hammond Road and Brushfoot Avenue in Hammond Park, a development approved by Council at its meeting of 13 November 2008.

There are 85 car parking bays have been provided on site as a part of this proposal. This represents a shortfall of 9 car parking bays when judged against the City's standard car parking requirements. In support of this shortfall the applicant has drawn on their experience operating the Last Drop in Canning Vale. The applicant indicates that the predominant use of the bottle shop in Canning Vale is the drive through facility, with those wanting to stop and browse being attracted to the larger liquor store establishments in the locality. The applicant has indicated that the people who do stop to browse in the liquor store often do so at night and not during peak times on a Friday or Saturday night. The applicant contends therefore, that the bottle shop component of the development does not itself demand the provision of car parking facilities, and as such the reduced number of bays provided is justified.

## Consultation

As the land abuts an 'Other Regional Road' (Beeliar Drive) reserve under the provisions of the Metropolitan Region Scheme, the details of the application were referred to the Western Australian Planning Commission for comment, who have confirmed support for the proposal in principle.

The application details have not been the subject of formal consultation with owners of neighbouring properties as:

- a 'Tavern' is a 'P' or permitted use in the 'Light and Service Industry' zone;
- there is a 150m separation between the proposal and the nearest residential property;
- the proposed Tavern development is sited to the very front of the subject lot, with the remainder of the lot, between the Tavern and the nearest residential properties to the east safeguarded for future 'Light and Service Industry' development;
- vehicle movements, parking and circulation will take place from Hammond Road ensuring that traffic will not impact on the residential amenity of those to the east of the site; and
- the proposed 'Tavern' is separated from sensitive land uses to the south such as the Emmanuel Catholic College, by Beeliar Drive.

## **Conclusion**

It is considered that the development of the site to provide a tavern is an acceptable use in land use terms and as such may be accommodated on the site in accordance with the land use provisions of the scheme. Furthermore, the details of the proposal are considered acceptable when judged against the standard development criteria of the scheme.

In further support of the proposal, the applicant has provided the following statement to the City.

'The operational style of the Last Drop Group which includes the Last Drop Canning Vale and the Elizabethan Village Pub and Brewery in Bedforddale, features beer brewed on site, authentic Tudor style buildings and cosy old world décor. Our customers are business people, families and over 25's. There is a strong emphasis on quality food and craft beers. While there are no rock bands, we provide wood fires in winter and leafy garden dining in summer'.

It is considered that the development of this site in the manner outlined would be a welcome addition to the range of eating/drinking establishments that exist across the City. It is recommended therefore that the application be approved subject to the conditions outlined.

## **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.

### **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.

### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

## **Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect of the Council's determination, there may be a cost to be borne by the City (out of the existing operational budget).

## **Legal Implications**

Town Planning Scheme No. 3

## **Community Consultation**

Refer to report

## **Attachment(s)**

1. Site plan
2. Elevations
3. Aerial photograph

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

The applicant has been advised that the application is to be considered at the 12 August 2010 Council Meeting.

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

Nil



**14.4 (OCM 12/08/2010) - BRANCH CIRCUS DISTRICT STRUCTURE PLAN AND RECENT DECISIONS RELATING TO WETLAND ASSESSMENTS - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (SM/M/024) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) note the Department of Environment and Conservation's decision in relation to changing the boundaries and classification of the two wetlands within the Branch Circus Draft District Structure Plan area;
- (2) given 1 above, note that the Draft District Structure Plan will need to be substantially modified and readvertised for community consultation;
- (3) not proceed with the current version of the Draft District Structure Plan; and
- (4) advise all landowners within the Draft District Structure Plan area of this advice, and that a new Draft District Structure Plan will be prepared for community consultation by the City of Cockburn.

**COUNCIL DECISION**

**Background**

The City of Cockburn ("City"), with assistance of Planning and Environmental Consultants RPS, prepared a Draft District Structure Plan for the area known as Branch Circus (Development Area 13) in early 2008. Refer to location plan within Agenda Attachment 1.

The Draft District Structure Plan made a number of assumptions in relation to possible changes to the alignment and category of the two wetlands within the subject area. This was due to the City being unable to obtain clear advice from the Department of Environment and Conservation ("DEC") as to whether changes to the wetlands would be likely or not.

The Draft District Structure Plan was advertised in July/August 2008 and a number of submissions raised concerns in relation to the assumptions made on the changes to the wetland categories and alignments, including concerns from State Government departments.

Resulting from this, RPS produced a wetland assessment report to help determine the alignment and extent of the two wetlands. These reports were sent to the DEC in August 2009 for their consideration. The DEC made a determination on the wetlands in June 2010.

The Draft District Structure Plan and associated Draft District Water Management Strategy have been on hold pending the outcomes of the wetland assessment. Given the decision of the DEC regarding the wetland assessment, consideration must be given to how the proceed forward. This is the purpose of this report.

### **Submission**

Nil

### **Report**

The subject site is affected by two wetlands, a northern and southern wetland. The Draft District Structure Plan made a number of assumptions in relation to changes to these wetland boundaries and classifications, as detailed below:

- Reduce the size of the northern Resource Enhancement wetland.
- Reclassify the southern wetland from a Conservation Category wetland to a Resource Enhancement wetland and reduce the size of this wetland.

However, as depicted in Agenda Attachment 2, the outcomes of the DEC's assessment of the two wetlands are significantly different. The DEC's assessment has specifically produced the following changes:

#### Northern Wetland

- Portion of the Resource Enhancement management category wetland on Lots 2, 3 and 4 have been reclassified to Conservation management category.
- The alignment of the wetland boundary on Lots 2 and 3 has been altered.
- Portion of the Resource Enhancement management category wetland on Lot 4 has been reclassified to Multiple Use management category.

### Southern Wetland

- The Conservation management category wetland on Lots 3, 12 and 13 Hammond Road has been reclassified to Multiple Use management category.

The DEC's determination of the two wetlands means that the Draft District Structure Plan will need to be substantially altered to reflect the recent decision. Agenda Attachment 3 shows the Draft District Structure Plan with the new wetland boundaries and associated 50m wetland buffers superimposed. This demonstrates that significant changes to the Draft District Structure Plan will be required.

The Draft District Structure Plan attracted a total of 22 submissions when it was advertised in 2008. Under the City's Town Planning Scheme, the local government is to consider all submissions received and within 60 days of the advertising period make a determination on the structure plan. The advertising period concluded in August 2008, however the consideration of the submissions and a decision on the Draft District Structure Plan has not been made due to the DEC not determining the fundamental question of wetland boundaries.

As the DEC has now determined the question of wetland boundaries, the City is now able to consider the submissions received and a process forward for the Draft District Structure Plan.

Out of the 22 submissions, 4 had no objections, 10 raised objections/concerns and 8 provided advice. The main concerns related to the assumptions made regarding the reclassification and reduction in wetlands and the proposal to develop parts of the wetlands and their associated buffers. The following provides a brief summary of the other main concerns/issues:

- concerned about increased traffic;
- State Government should purchase areas with high conservation value;
- issues on density, land use and road configuration;
- impact of development on environmentally sensitive areas, including impact on the adjoining RAMSAR listed wetland (Thomson Lake);
- provision of suitable buffers to wetlands; and
- protection of remnant vegetation.

It is now apparent that the Draft District Structure Plan will need to be substantially altered to reflect the DEC's determination regarding the wetlands. As the DEC's decision is final, the City is now left with a proposal that clearly cannot be implemented in its current form. Recognising this, it is recommended that Council:

- (1) note the Department of Environment and Conservation's decision in relation to changing the boundaries and classification of the two wetlands within the Branch Circus Draft District Structure Plan area;
- (2) given 1 above, note that the Draft District Structure Plan will need to be substantially modified and readvertised for community consultation;
- (3) not proceed with the current version of the Draft District Structure Plan; and
- (4) advise all landowners within the Draft District Structure Plan area of this advice, and that a new Draft District Structure Plan will be prepared for community consultation by the City of Cockburn.

The City's officers will undertake the necessary changes and recommence the advertising process. All submissioners who provided comment on the original Draft District Structure Plan will be invited to comment.

### **Conclusion**

Given the DEC's recent decision on the wetland boundaries, significant changes to the Draft District Structure Plan are required which will need to be readvertised. It is therefore appropriate for the City not to proceed with the current proposal, produce a new plan and undertake the necessary advertising. The Draft District Structure Plan will be presented back to Council once the advertising period has been undertaken.

### **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.

#### **Infrastructure Development**

- To construct and maintain parks and bushland reserves that are convenient and safe for public use, and do not compromise environmental management.

#### **Natural Environmental Management**

- 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**

Nil

## Legal Implications

*Planning and Development Act 2005*  
 City of Cockburn Town Planning Scheme No. 2  
*Town Planning Regulations 1967*

## Community Consultation

Once the Draft District Structure Plan has been revised to reflect the updated wetland classification and boundary alignments, it will be readvertised in accordance with Scheme requirements. This will include advising those people who made a submission on the original plan.

## Attachment(s)

1. Location plan.
2. Map from DEC showing changes to the wetland classification and boundary alignments.
3. Advertised structure plan with the revised wetland boundaries/classification and associated wetland buffers superimposed.

## 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 12 August 2010 Council Meeting.

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

Nil

- 14.5 (OCM 12/08/2010) - PROPOSED SCHEME AMENDMENT NO. 55 - REZONING THE FORMER PRIMARY SCHOOL SITES WITHIN COOLBELLUP (RESERVES 38242, 38243 AND 30233) FROM 'PUBLIC PURPOSES - PRIMARY SCHOOL' TO 'DEVELOPMENT' - OWNER: DEPARTMENT OF EDUCATION - APPLICANT: RPS (93055) (M CARBONE) (ATTACH)**

### RECOMMENDATION

That Council:

- (1) in pursuance of Section 75 of the *Planning and Development Act 2005* ("Act"), initiate Amendment No. 55 to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of:
  1. rezoning Reserve 38242 (Lot 2719) Hilory Street, Reserve

- 38243 (Lot 2718) Benedick Road and Reserve 30233 (Lot 2168) Montague Way, Coolbellup from 'Public Purposes - Primary School' to 'Development' and 'Development Area 31';
- 2. rezoning Reserve 30565 Capulet Street, Coolbellup from 'Lakes and Drainage' reserve to 'Development' and 'Development Area 31';
- 3. adding a new Development Area 31 to Schedule 11 of the scheme text as follows;

Ref	Area	Provisions
DA 31	<p>COOLBELLUP SCHOOL SITES</p> <p>Reserve 38242; Lot 2719 Hilory Street, Coolbellup</p> <p>Reserve 38243; Lot 2718 Benedick Road, Coolbellup</p> <p>Reserve 30233; Lot 2168 Montague Way, Coolbellup</p> <p>Reserve 30565 Capulet Street, Coolbellup</p> <p>(DEVELOPMENT ZONE)</p>	<ol style="list-style-type: none"> <li>1. An approved structure plan for each of the former school sites together with all approved amendments shall apply to the land in order to guide subdivision and development;</li> <li>2. Structure plans will be required to fulfil the following design objectives to the satisfaction of Council:               <ol style="list-style-type: none"> <li>i. Provide for a range of residential densities, dwelling types and lot sizes.</li> <li>ii. Provide for medium to higher density development on the former Koorilla Primary School site, taking advantage of its location adjoining the.</li> <li>iii. Provide for medium density development on the former Coolbellup and North Lake Primary School sites.</li> <li>iv. Ensure the layout and urban form of structure plans responds appropriately to the surrounding neighbourhood environment. Structure plans must specifically be seen to facilitate a 'natural' extension to the surrounding neighbourhood environment, through providing for appropriate integration with the neighbourhood layout and pattern of residential development.</li> <li>v. Ensure the layout and urban form of structure plans</li> </ol> </li> </ol>

		<p>responds appropriately to existing and planned areas of public open space.</p> <p>vi. Ensure that the layout and urban form of structure plans provides for the practical retention of significant trees/vegetation. This shall include the appropriate allocation of public open space areas, as well as opportunities to retain significant trees/vegetation within road reserves.</p> <p>vii. Ensure environmentally sustainable design approaches are achieved in terms of solar orientation of lots.</p> <p>viii. Ensure general consistency with the findings of the Coolbellup Enquiry By Design Workshop Outcomes Report.</p> <p>3. Land uses classified on the structure plans apply in accordance with Clause 6.2.6.3.</p> <p>4. The Local Government may adopt Detailed Area Plan(s) pursuant to Clause 6.2.15 for any part of the Development Area as defined on the approved structure plan(s). All land use and development for a particular lot or lots the subject of a Detailed Area Plan shall accord with the adopted Detailed Area Plan.</p> <p>5. A total of 3.79 hectares shall be provided across the three former school sites for the purposes of public open space and/or community purposes.</p>	
<p>4. Amending the Scheme Map accordingly.</p> <p>(2) as the amendment is in the opinion of Council consistent with Regulation 25(2) of the Town Planning Regulations 1967 ("Regulations"), and upon the preparation of the necessary amendment documentation, the amendment be referred to the Environmental Protection Authority ("EPA") as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal</p>			

environmental assessment, be advertised for a period of 60 days (applicant has agreed to a 60 day advertising period). In the event that the EPA determines that the amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the amendment.

## COUNCIL DECISION

### Background

In June 2002 the Minister for Education announced a review of schools in Coolbellup, which resulted in the closure of the three primary school sites (Coolbellup, North Lake and Koorilla primary schools) and the construction of a new consolidated school on Len Packham Reserve.

Council resolved at its December 2002 meeting to advise the Education Department that it would support the proposal for a new primary school for Coolbellup to be constructed on a portion of Len Packham Reserve. This was subject a number of conditions including: *“Land of equivalent monetary and recreational value to the area of reserve land relinquished for the new school being replaced within the Coolbellup area.”*

In September 2003 the City of Cockburn, in collaboration with the Department for Planning and Infrastructure, Department for Housing and Works and the Department for Education and Training conducted an Enquiry-by-Design Workshop. This workshop sought input from local stakeholders as part of a strategy to revitalise the Coolbellup Shopping Centre and surrounding areas. This process included consideration of the proposed new consolidated primary school and the redevelopment of the three primary school sites.

The outcomes of this Workshop relevant to the primary school sites included; preparation of broad redevelopment concepts for the three sites, identification of the importance of preserving mature trees and remnant vegetation where appropriate within the sites, and the identification of notional areas of public open space for each site.

The consolidated school was developed on portion of Len Packham Reserve in 2005/06.



Signifying the State Government's desire for development of the former school sites to now take place, Delfin Lend Lease have recently entered into a Partnering Agreement with Landcorp, and are responsible for the progression of community consultation, rezoning, structure planning and the ultimate redevelopment of the former school sites. The Coolbellup community reference group, which consists of local residents, including Councillor Val Oliver, was set up by the joint venture partners late last year to provide a mechanism for residents and the developers to discuss issues in relation to the future redevelopment of the school sites. The concept plans for the three school sites have been presented to this group.

### **Submission**

The applicant seeks to rezone the three former primary school sites to 'Development' zone under City of Cockburn Town Planning Scheme No. 3 ("Scheme"), and include appropriate provisions in Schedule 11 of the Scheme that requires all subdivision and development in the Development Area to be in accordance with an adopted structure plan. Indicative concept plans have also been included within the Scheme amendment to assist in explaining how the sites could be developed. Detailed structure plans for the former primary school sites will be subject to separate submission and are intended to be advertised at the same time as this Scheme amendment.

The existing and proposed zoning maps are contained within Agenda Attachments 2 and 3 respectively.

### **Report**

#### Subject sites and zoning

The proposed Scheme amendment relates to the three former school sites in Coolbellup which are described as follows:

Former School site	Reserve No	Address	Area (ha)
Coolbellup	38242	Lot 2719 Hilory Street	4.6
Koorilla	38243	Lot 2718 Benedick Road	4.2
North Lake	30233	Lot 2168 Montague Way	4.1

*Note: The North Lake site also includes the adjacent drainage sump (Reserve 30565; 792m<sup>2</sup>). Part of the Koorilla School site is also affected by a Western Power easement.*

Agenda Attachment 1 shows the location of the three former school sites.

The three sites are zoned 'Urban' under the Metropolitan Region Scheme and are reserved as 'Public Purposes - Primary School' under the City's Town Planning Scheme. There is a drainage sump next to

North Lake primary school site which is reserved as 'Lakes and Drainage'. The Scheme amendment proposes to rezone the school sites, including the drainage sump, to 'Development' and 'Development Area 31' accordingly.

The purpose of the 'Development' zone in this instance is to provide for future residential development in accordance with a comprehensive structure plan. The proposed 'Development Area 31' provisions allow Council to apply requirements to the future structure plan. A set of requirements have been developed by officers in consultation with the proponent, and are provided following:

Ref	Area	Provisions
DA 31	<p>COOLBELLUP SCHOOL SITES</p> <p>Reserve 38242; Lot 2719 Hilory Street, Coolbellup</p> <p>Reserve 38243; Lot 2718 Benedick Road, Coolbellup</p> <p>Reserve 30233; Lot 2168 Montague Way, Coolbellup</p> <p>Reserve 30565 Capulet Street, Coolbellup</p> <p>(DEVELOPMENT ZONE)</p>	<ol style="list-style-type: none"> <li>1. An approved structure plan for each of the former school sites together with all approved amendments shall apply to the land in order to guide subdivision and development.</li> <li>2. Structure plans will be required to fulfil the following design objectives to the satisfaction of Council: <ol style="list-style-type: none"> <li>i. Provide for a range of residential densities, dwelling types and lot sizes.</li> <li>ii. Provide for medium to higher density development on the former Koorilla Primary School site, taking advantage of its location adjoining the Coolbellup Town Centre.</li> <li>iii. Provide for medium density development on the former Coolbellup and North Lake Primary School sites.</li> <li>iv. Ensure the layout and urban form of structure plans responds appropriately to the surrounding neighbourhood environment. Structure plans must specifically be seen to facilitate a 'natural' extension to the surrounding neighbourhood environment, through providing for appropriate integration with the neighbourhood layout and pattern of residential development.</li> <li>v. Ensure the layout and urban form of structure plans responds appropriately to existing and planned areas of public open space.</li> <li>vi. Ensure that the layout and urban form of structure plans provides for the practical retention of significant</li> </ol> </li> </ol>

		<p>trees/vegetation. This shall include the appropriate allocation of public open space areas, as well as opportunities to retain significant trees/vegetation within road reserves.</p> <p>vii. Ensure environmentally sustainable design approaches are achieved in terms of solar orientation of lots.</p> <p>viii. Ensure general consistency with the findings of the Coolbellup Enquiry By Design Workshop Outcomes Report.</p> <p>3. Land uses classified on the structure plans apply in accordance with Clause 6.2.6.3.</p> <p>4. The Local Government may adopt Detailed Area Plan(s) pursuant to Clause 6.2.15 for any part of the Development Area as defined on the approved structure plan(s). All land use and development for a particular lot or lots the subject of a Detailed Area Plan shall accord with the adopted Detailed Area Plan.</p> <p>5. A total of 3.79 hectares shall be provided across the three former school sites for the purposes of public open space and/or community purposes.</p>
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Dealing with land use and design through the structure planning process is appropriate in areas requiring comprehensive planning such as the former school sites. Rezoning the sites 'Development' and 'Development Area 31' establishes the statutory framework to require structure plans for each of the school sites to be prepared and approved.

#### Coolbellup Enquiry-by-Design and POS Agreement

To assist with the revitalisation of the Coolbellup area, an Enquiry-by-Design Workshop was carried out from 22-24 September 2003. An Enquiry-by-Design Workshop is a tool used to provide a general planning consensus regarding how a project should be approached. This involved designers, planners, engineers, representatives of regulatory agencies, centres owners, business operators and community members invited to work together to establish principles and draw plans as part of an investigative process as to how future development may occur in a given place. An outcomes report was prepared following the workshop and the following provides a summary of the issues identified for the three school sites:



POS, particularly in regards to the Koorilla school site, consideration has been given to providing POS in a different form such as community purposes.

The City of Cockburn's 'Aged Friendly' Strategic Plan - need for affordable aged care accommodation

Council adopted the 'Aged Friendly' Strategic Plan in September 2009 and also resolved to consider the potential for the development of aged care accommodation in future when considering options for the development/redevelopment of land which may be suitable for such purposes. The strategic plan highlighted the severe shortage of affordable aged care accommodation which is projected to increase in the future.

Within the City of Cockburn, it is estimated that in 2011 there will be a shortfall of 48 aged care beds. This is expected to increase to a shortfall of 435 beds by 2021. The increase in the anticipated shortfall of beds is due to the aging of the population and the limited land available to create additional aged accommodation, particularly in the older parts of the City such as Coolbellup. The opportunity to provide affordable age care is further hindered by the need to acquire large land parcels (which are limited) and the high costs to purchase such land. To make affordable aged care accommodation viable, the land is usually required to be provided free to the not-for-profit operator or leased at a reduced rate. However there is currently no funding for the purchase of land by the Commonwealth and there is insufficient funding by the Commonwealth for capital works construction and operation funding. This highlights the importance of providing affordable land to enable not-for-profit organisations to operate.

To assist with providing affordable land to community based age care providers, opportunity exists to provide portion of the required POS area in the form of a reserve or freehold land title for not-for-profit aged care accommodation. This is a City of Cockburn led initiative which was presented to a briefing session with Councillors in February 2010. The aim of this briefing was to discuss whether the 2.1486ha to match the area excised for the new school on Len Packham Reserve could be provided on the Koorilla school site in the form of community based (not-for-profit) aged care accommodation.

The City's officers have pursued this idea further and have presented this concept to the Coolbellup community reference group, officers from the Department for Planning and State Land Services. No major concerns have been raised to this proposal during these discussions, provided an adequate distribution of POS is achieved.

State Land Services has advised that the most suitable method of implementing this arrangement is for the area required for the not-for-profit aged care accommodation to be acquired by the City for 5% of its

unimproved market value as provided for by the section 20A policy guidelines. This will then enable the City to partner with a not-for-profit age care provider in developing the land. To retain greater control over the land and any future operators, the preference is for the City to lease the land to a not-for-profit organisation at a substantially reduced rate, rather than sell the land. This will ensure that the land is provided as affordable aged care accommodation in perpetuity. To provide further certainty, a caveat would be lodged on the title ensuring that the land is only used for a community benefit in the form of affordable aged care accommodation.

Without the incentive of reduced rent, the site would not be economically viable to the not-for-profit sector.

Any development on the future 2.1486 ha site will be based on the ageing in place model whereby a mixture of independent living, low care, high care and dementia specific care accommodation is provided. The benefit of this model is that it allows individuals or couples to remain in the same location as their health deteriorates, rather than being moved to different locations as circumstances change. Although age care providers usually prefer sites in the order of 4-8ha to develop age care accommodation, the City has engaged an Architect who has demonstrated that the 2.1486 ha site is of a sufficient size to accommodate a development based on the aging in place model although it will need to be mainly two storeys.

#### Concept plan for the school sites

The proposed scheme amendment includes indicative concept plans for each of the school sites which are generally consistent with the principles established within the Enquiry-by Design workshop which includes; providing a range of densities, retain existing vegetation and the possibility of aged care accommodation on the Koorilla School site (refer Agenda Attachment 4). Although the concept plans are indicative, the applicant has been working extensively with the City's officers to prepare the plans. The concept plans will be refined further through the structure planning process and the associated public advertising process. Further information will be provided during the structure plan process such as tree surveys to identify the exact location of trees which should be retained and a local water management strategy to identify drainage areas etc.

In relation to the North Lake and Coolbellup school sites a combination of low and medium density development has been provided. Public open space has been located to allow for the retention of significant vegetation and bushland and roads have been aligned wherever possible to allow significant trees to be retained within the road reserves.

In relation to the Koorilla school site, it is proposed that the 2.1486ha of public open space be in the form of community based (not-for-profit) aged care accommodation. The provision of public open space in this matter is consistent with the Western Australian Planning Commission's Liveable Neighbourhoods policy which states under R27:

*"in consultation with the relevant local government, the WAPC may agree to community purposes sites (e.g. community centre, meeting halls, branch libraries, kindergartens) being provided as part of an overall public open contribution. For the purposes of calculating public open space contributions the area of community purposes sites should not be less than 2000.m<sup>2</sup>.*

The proposed not-for-profit age care accommodation site will provide an important community benefit and is considered consistent with the purpose of the above community purpose definition. Furthermore part of the site is proposed to be public open space.

This will assist in providing for the severe shortage of affordable aged care accommodation that exists particularly within the western parts of the City of Cockburn. As the aged care portion of the site could be development comprehensively, it will allow existing vegetation to be retained around buildings and within a small POS. The City's Architects have prepared a concept plan which illustrates how the site could be developed to accommodate a 100 bed aged care facility and an additional 100 independent living dwellings (refer Agenda Attachment 5). The remainder of the Koorilla site is shown as medium density to capitalise on the sites proximity to the Town Centre.

## **Conclusion**

The consolidation of the three school sites into one new school on Len Packham reserve provides the opportunity for the three former school sites to be redeveloped consistent with the objectives of the Coolbellup Enquiry-by-Design. The rezoning of the school sites to 'Development' and 'Development Area 31' sets up the framework to enable the preparation of structure plans for each of the school sites. Appropriate requirements within the proposed Development Area 31 provisions are included to ensure that the previously agreed 3.79ha of public open space is achieved. The concept plan provides an indication of how the sites could be redevelopment and this will be refined further during the structure plan process.

Providing 2.1486 ha of the Koorilla school site for not-for-profit aged care accommodation will require the City to acquire the land for 5% of its unimproved market value as provided for by the section 20A policy guidelines. This will enable the City to lease the land to a not-for-profit aged care provider at a reduced rate with the money generated to be spent on public open space in the area.

It is envisaged that this scheme amendment and the structure plans for each of the school sites will be advertised concurrently. The applicant has also agreed to extend the advertising period to 60 days for the Scheme amendment and structure plans. In addition to the standard advertising methods for Scheme amendments and structure plans, a public meeting will also be held to inform the community about the project.

It is therefore recommended that Council initiate the scheme amendment to the three former school sites.

### **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.

#### ***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.

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

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

### **Budget/Financial Implications**

The City will be required to purchase the 2.1486ha of the Koorilla school site at 5% of its unimproved value as provided by the section 20A policy guidelines.

### **Legal Implications**

*Planning and Development Act 2005*  
City of Cockburn Town Planning Scheme No. 3  
*Town Planning Regulations 1967*

### **Community Consultation**

In accordance with the *Town Planning Regulations 1967* consultation is to be undertaken subsequent to the local government adopting the scheme amendment and the Environmental Protection Authority advising that the proposal is environmentally acceptable.

The scheme amendment and structure plans for each of the school sites will be advertised concurrently. The applicant has also agreed to



extend the advertising period to 60 days for the Scheme amendment and structure plans given the nature of the proposal.

#### **Attachment(s)**

1. Location plan
2. Existing zoning plan
3. Proposed zoning plan
4. Concept plans for the three school sites
5. Indicative concept plan for the aged care accommodation

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

The proponent has been advised that this matter is to be considered at the 12 August Council meeting.

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

Nil.

#### **14.6 (OCM 12/08/2010) - SALE OF LAND - LOT 801 SOUTHWELL CRESCENT, HAMILTON HILL - APPLICANT: YARAN PTY LTD ATF SOUTHWELL 801 TRUST - OWNER: CITY OF COCKBURN (6010702) (K SIM) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) accept the offer from Yaran Pty Ltd ATF Southwell 801 Trust to purchase Lot 801 Southwell Crescent, Hamilton Hill for a consideration of \$450,000, (including GST) noting that this includes a 28 day due diligence period;
- (2) comply with the public advertising requirements of Section 3.58 (3 and 4) of the *Local Government Act 1995*;
- (3) if the due diligence results in Yaran Pty Ltd ATF Southwell 801 Trust deciding not to proceed with the contract, Council accept the offer to purchase Lot 801 Southwell Crescent, Hamilton Hill for a consideration of \$405,000 from Bradley John McLeod and Sarah Renae Cordina;
- (4) comply with the public advertising requirements of Section 3.58 (3 and 4) of the *Local Government Act 1995*; and
- (5) allocate proceeds of the sale to the Land Development Reserve Fund.

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

**COUNCIL DECISION**

**Background**

Lot 801 Southwell Crescent was created as part of the Phoenix Rise Master Plan. This identified the land as being surplus to public recreation needs, and appropriate for residential R40 development. Following the conclusion of the Master Plan process, the land was rezoned and subdivided to create the subject Lot 801, and Lot 800 which is now public open space.

**Submission**

Davies First National Real Estate acting for the City of Cockburn has presented two offers to purchase Lot 801. An offer of \$450,000 (including GST) from Yaran Pty Ltd ATF Southwell 801 Trust is conditional on a period of 28 days due diligence and settlement 6 months after acceptance of the offer. There is a deposit of \$10,000, but is not conditional on finance. The other offer of \$405,000 (including GST) from Bradley John McLeod and Sarah Renae Cordina has no due diligence period, with settlement on or before 30 days from final approval. There is a deposit of \$5,000, and a condition that a loan amount be approved.

**Report**

Davies First National was commissioned to market Lot 801 Southwell Crescent, Hamilton Hill following an analysis of submissions received from a selection of local real estate agents. Council Policy APD52 was applied in this respect. The marketing program of newspaper advertisements, internet listing and signage generated a good response. Proximity to high tension power lines was of concern to some respondents. The two parties that have submitted offers are aware that the battleaxe lot has an area of 1465 sqm, and are the subject of a 4 lot Detailed Area Plan.

A valuation report has been obtained from Valuers McGees which determines the market value of Lot 801 to be \$450,000 (including GST). The offer of \$450,000 by Yaran Pty Ltd ATF Southwell 801 Trust has commenced statutory notification as per Section 3.58 of the *Local Government Act 1995*.

The offer of \$450,000 from Yaran Pty Ltd ATF Southwell 801 Trust being \$45,000 higher than the offer from Bradley John McLeod and Sarah Renae Cordina, and is considered superior even after taking into

consideration additional 5 months for settlement. The offer also contains a condition allowing a period of 28 days for due diligence. This period of time allows the prospective purchaser to examine the site and any constraints applicable to the land. These include, but are not limited to, boundary surveys, geotech investigation, environmental and contamination assessments. In the event that the offer to purchase is withdrawn as a result of the due diligence, then it would be open to Council to accept the alternative offer from Bradley John McLeod and Sarah Renae Cordina.

Licensed Valuer's McGees have been appointed to provide a full market valuation report as required by Section 3.58 of the *Local Government Act 1995*. The market value as determined has been noted in the public notice of a newspaper having state wide publication, as is the legislative requirement.

Funds generated by the sale will be initially placed in the Land Development Reserve Fund, but will be available to help fund Phoenix Rise Landscaping and the future development of the new library on Lot 400 Wentworth Parade, Success.

### **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.

#### **Governance Excellence**

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

### **Budget/Financial Implications**

Proceeds of the sale will be transferred to the Land Development Reserve Fund.

### **Legal Implications**

Provisions of Section 3.58 of the *Local Government Act 1995* apply.

### **Community Consultation**

Details of the sale will be advertised in a newspaper for State wide publication, as required by Section 3.58 of the *Local Government Act 1995*.

**Attachment(s)**

1. Offer to Purchase - Yaran Pty Ltd ATF Southwell 801 Trust
2. Offer to Purchase - Bradley John McLeod and Sarah Renae Cordina.
3. Map showing subject lot

**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 12 August 2010 Council Meeting.

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

Nil

**14.7 (OCM 12/08/2010) - SALE OF LAND - LOT 1004 BIRCHLEY ROAD, BEELIAR - APPLICANT: FEYMORE PTY LTD - OWNER: CITY OF COCKBURN (4414000) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the offer to purchase Lot 1004 Birchley Road, Beeliar for a consideration of \$690,000 (including GST) from Feymore Pty Ltd;
- (2) counter the offer in (1) by amending the purchase price to \$750,000 (including GST);
- (3) subject to the counter offer in (2) being greater than the value determined by the City's appointed Licensed Valuer, proceed to advertise the offer in accordance with Section 3.58 of the *Local Government Act 1995*; and
- (4) allocate proceeds of the sale to the Land Development Reserve Fund.

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

**COUNCIL DECISION**

## **Background**

Lot 1004 on Deposited Plan 59294 is a recently created freehold lot, being part of surplus land acquired to facilitate the construction of Beeliar Drive. The lot is situated on the south east corner of the intersection of Beeliar Drive and Birchley Road.

Lot 1004 has an area of 2005 sqm, and is zoned 'Residential R20'. This makes it suitable for subdivision into 4 residential lots. An unsolicited offer has been received to purchase the entire land parcel, in the amount of \$690,000 (including GST).

## **Submission**

The offer from Feymore is not as a response to any marketing by the City or any agent of the City. The offer is a cash offer with settlement within 10 days of acceptance of the offer.

## **Report**

The subdivision creating Lot 1004 also created Lot 1003 (area 4449 sqm) and Beeliar Drive road reserve. The intention when creating these freehold lots was to allow further residential subdivision of the land not required for the future Beeliar Drive. The subject Lot 1004, with an area of 2005 sqm, is suited for subdivision into 4 residential lots of 500 sqm each. The existing lots in this locality are of a similar size and nature.

In assessing the value of the offer by Feymore, an analysis of the potential returns to the City if it proceeded to subdivide Lot 1004 was undertaken. Taking into consideration selling prices of the resulting 4 lots based on recent sales close by and deducting development costs, the potential return to the City could be in the order of \$827,000.

This figure includes development costs such as retaining walls, services, consultants, selling costs and interest that could have been earned from an early sale of the land as is. Deducting from this is a standard land development risk/profit margin of 10%, means that the current undeveloped value of Lot 1004 would be in the vicinity of \$747,000. This is significantly higher than the offer presented by Feymore.

The essential question is whether or not Council wishes to dispose of the land in its current undeveloped form, and utilise funds in the short term to meet other evolving development projects. Alternatively, Council may wish to not dispose of the land, and instead subdivide the land and sell the resulting residential lots created. This however would incur a time delay of about 12 months.

Considering this predicament, officers believe that a counter offer of \$750,000 should be presented to Feymore. While the City won't realise the additional profit (and risk) margin of approximately 10%, it will essentially receive income which can then be used to help fund a number of important development projects currently taking place; the most notable of these being the new library on Lot 400 Wentworth Parade.

A market value of the land in its current configuration has not been sought, but will be obtained if Council decide to counter the offer and Feymore decides to accept the recommended counter offer. For Council's resolution to take affect, its counter offer of \$750,000 must not be less than the market value.

### **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.

#### **Governance Excellence**

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

### **Budget/Financial Implications**

Proceeds of the sale will be transferred to the Land Development Reserve Fund.

### **Legal Implications**

Provisions of Section 3.58 of the *Local Government Act 1995* apply.

### **Community Consultation**

Details of the sale will be advertised in a newspaper for State wide publication, as required by Section 3.58 of the *Local Government Act 1995*.

### **Attachment(s)**

1. Offer to Purchase
2. Map showing subject lot

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

The proponents have been advised that this matter is to be considered at the 12 August 2010 Council Meeting.

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

Nil

### 14.8 (OCM 12/08/2010) - CONSIDERATION OF FUTURE MANAGEMENT FOR RESERVE 24308 (NAVAL BASE SHACKS) - OWNER: STATE OF WESTERN AUSTRALIA - APPLICANT: CITY OF COCKBURN (1914) (A TROSIC / D ARNDT) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) for the purposes of public consultation, endorse Option 1 as the preferred option for the future management of Reserve 24308. This being to undertake a comprehensive reform of Reserve 24308, by bringing the reserve under the *Caravan Parks and Camping Grounds Act 1995*;
- (2) endorse the following components forming part of Option 1:
  1. An initial one-off lease term of five years, at the end of which (or prior) shacks must be removed by lessees and lessees replacing them with an approved caravan and annex. This aspect being non-negotiable - if lessees haven't removed shacks by the expiry date, then leases are forfeited to the City of Cockburn.
  2. During this initial five year lease term, the reserve's infrastructure being brought up to a satisfactory standard to enable implementation of the *Caravan Parks and Camping Grounds Act 1995*.
  3. All costs associated with reserve infrastructure upgrades being prefunded by the City of Cockburn, but with full cost recovery from increased lease revenue.
  4. Following expiry of the initial five year lease term defined in 1., the new caravan park regime commencing with new leases as follows:
    - lease terms being five years, with a single option for a further five year term;
    - lease fees being increased to reflect market value, then increased by CPI each year and a market review at the end of the first five year lease term;
    - the new accommodation being used for a total of four months in any twelve month period, due to the proximity of the Kwinana Industrial Area;

- the current six month State Government Break Clause being maintained; and
- no reassignment of leases taking place whatsoever. Once lessees decide they no longer wish to have the lease, the lease is to be surrendered to the City of Cockburn for reallocation.

(3) initiate consultation to be undertaken as per the following:

1. A formal letter being sent to all shack lessees, together with a full copy of this report (including attachments) and Council's resolution, inviting comments. This being for a comment period of 42 days.
2. A public forum briefing being held at the City of Cockburn. This is to be held midway through the public consultation process, for the purposes of answering questions that may arise in respect of Option 1.
3. For the entire duration of the consultation, a specific page on the City's website being established which includes details regarding the preferred Option 1.

## COUNCIL DECISION

### Background

Reserve 24308 is an A Class reserve and is Crown land by virtue of Crown Land Title LR3107-425. The City of Cockburn ("City") has a Management Order for Reserve 24308 for the purposes of 'Recreation and Camping', with the power to lease for a period of 21 years.

Reserve 24308 is located at Lot 373 Cockburn Road, Henderson and consists of an area of 4.5468 ha. It has 178 shacks located on it, with little uniformity in positioning and no definitive identification of the actual area occupied by each shack. A shack located near the entrance to Reserve 24308 has been renovated to a small shop that services people at the reserve as well as passing traffic along Cockburn Road.

To date the City has not conducted any detailed audit type inspection of each (or any) shack. As a result, the City does not know the full extent



to which each shack either complies or fails to comply with all applicable health and building laws.

It is apparent even in undertaking inspections; there is no comparable legislative context in which to be able to impose minimum standards. This is of major concern to the City, in that managing risks and public safety on a City managed reserve must be at the forefront of Council's mind. The City is therefore now faced with the task of having to bring the use of the reserve under some aspect of legislation, to ensure the shacks and their use is appropriately regularised for the future.

In making this decision, the City is also mindful of the existing lessees at the reserve, who have enjoyed use of the reserve for many years with very minimal interference from the City.

The purpose of this report is for Council to consider a long term strategy for dealing with the reserve, focussed on bringing the use of the reserve under some aspect of legislative control. It is recommended that Council endorse the option recommended by officers, for the purpose of public consultation.

### **Submission**

N/A

### **Report**

#### Site Description

Reserve 24308 is located at Lot 373 Cockburn Road, Henderson and consists of an area of 4.5468ha. As mentioned previously, it has 178 shacks located on it, but with little uniformity in shack positioning, design and current built condition.

Reserve 24308 has a sound internal road system that permits vehicle movement at restricted speed, with adequately installed speed reduction devices (speed humps). Reserve 24308 contains two common user ablution facilities, which were constructed by the City for use by shack lessees. The ablution facilities have mains electricity and a potable water supply.

A potable water supply for shack lessees is provided through the strategic location of water taps within Reserve 24308, with connection via a hose system. The shacks do not have access to other utilities, such as mains electricity, reticulated gas or sewer. The majority of shacks have been fitted with unapproved bottled gas, and generate their own electricity supply through unapproved solar panels, small wind turbines and power inverters.

A shack at the entrance to Reserve 24308 has been converted into a small shop. The shop is connected to mains power and reticulated water with its own individual meter for each.

### History of Reserve 24308

Anecdotal records from the City indicate that parts of the area, now represented by Reserves 24308 and 24309, were used as an informal camping ground possibly as early as 1933. Historically, Reserves 24308 and 24309 were created and set aside for the purposes of public utility in 1955, following transfer of the land from the Commonwealth. The original vesting of Reserves 24308 and 24309 to the Cockburn Roads Board was approved by the Executive Council and granted on 10 July 1957 for the purposes of recreation and camping. The Vesting Order for Reserve 24309 contained the power to lease. The Executive Council also designated Reserves 24308 and 24309 as A Class reserves at the same time.

Original structures placed on the land consisted of caravans with annexes. Over time the structures have become more permanent in nature and no longer represent a caravan with a soft or rigid annexe.

The site was originally managed as a Caravan Park, with a register of City of Cockburn residents being allocated a site each time a lessee rescinded their lease. It has now evolved into exclusive holiday accommodation with the sites and structures being sold on the open market and the number of City of Cockburn Ratepayers reducing to 26% of the 179 lessees.

### Current Tenure of the Land

Part 4 of the *Land Administration Act 1997* provides the legislative basis for the creation, management, amendment and cancellation of reserves of Crown land. A reserve represents Crown land which has been set aside or dedicated for a particular purpose in the public interest. There are hundreds of reserve purposes utilised across the State, recognising the diverse role and function which reserves have to perform in the public interest. The purpose of Reserve 24308 is 'Recreation and Camping'.

In terms of management, once a reserve is created it is placed under the care, control and management of a State Government department, Local Government or incorporated community group by way of a Management Order registered against the relevant parcel of Crown land and endorsed on the Certificate of Land Tenure. In terms of Reserve 24308, a Management Order exists with the City which includes a power to lease for up to 21 years. The Management Order does however limit use to being consistent with the reserve purpose ('Recreation and Camping'), with all leases subject to the Minister for Lands approval.

In addition to the reserve purpose and Management Order requirements, Reserve 24308 is also classified as an A Class reserve which affords the greatest degree of protection under the *Land Administration Act 1997*. In terms of historical appreciation, the *Land Act 1933* provided for reserves of Crown land to be classified as Class A, B or C reserves. This approach was extinguished under the *Land Administration Act 1997*, with a new approach in the form of classifying all reserves as one and the same - but keeping the notion of A Class reserves which would continue to be classified separately representing their importance and need for high level protection. Any proposal to undertake a major amendment to an A Class reserve, including modifying a reserve purpose, can only take place by tabling the proposal in both Houses of Parliament in accordance with Section 43 of the *Land Administration Act 1997*.

On 29 April 1999 the then Minister for Lands (Hon Doug Shave MLA) advised the City that the *“leases are only an interim measure, which the State has accepted, to recognise the existence of the shacks until such time as the situation is rectified”*. In further correspondence dated 26 April 2001, it was stated that the then Department of Land Administration *“would prefer a policy that allowed for replacement of existing structures, rather than one that encouraged expansion or major development. This would ensure that lessees were under no misapprehension that their tenure is both short term and finite.”*

#### Previous Council Decisions

It is noted that Council has made decisions in the past regarding Reserve 24308, such as that detailed below. These decisions however were based on the previous context, whereby the extent of issues and risks associated with the reserve were not fully understood. These decisions importantly do not prevent Council making a new decision for the reserve going forward.

Council meeting dated 16 December 2003 (Minute No. 2267):

- “(1) adopts the Design and Building/Development/Other Works Guidelines for Reserve 24308, described as the Naval Base Caravan Park, Cockburn Road, Henderson, as attached to the Agenda.*
- (2) advise Hilda Shroy and Aaron Johnson that the application to construct a new Chalet on Site 515, as shown in the attached plan, is approved, subject to:*
- (i) conforming with any approval requirements of the owner of the Reserve (Department of Planning and Infrastructure) in respect of the proposal; and*
  - (ii) completion and submission of an Application Form NBHA1 and associated documentation as required by the Guidelines referred to in sub-recommendation (i) above.”*

### City of Cockburn Municipal Heritage Inventory

The City resolved on 20 April 2004 to insert the Naval Base Caravan Park into the second volume of the City's Municipal Heritage Inventory as Place No. 67. The site has been allocated the Categories of Significance of Aesthetic, Historic, Representative, Social and Rarity. The rating assessment ascribed to the site is detailed in following:

Aesthetic Value (streetscape, setting)	1 (High)
Architectural Merit (design features)	5 (Low)
Rarity Value	1 (High)
Value as part of a group/precinct	1 (High)
Condition	3
Integrity	1 (High)

The Municipal Heritage Inventory is not referenced within City of Cockburn Town Planning Scheme No 3 ("Scheme") and therefore the Inventory has no statutory powers to enforce the protection recommended under the Management Categories. As the Municipal Heritage Inventory has no legislative implications in regard to the ongoing use and development of Reserve 24308, no further consideration has been given to its entry on the Inventory.

Clause 7.1 of the Scheme does refer to a 'Heritage Listing', which is separate from the Municipal Heritage Inventory. When compiling the Heritage Listing the City must have regard for the Inventory, and include such properties from the Inventory on the Heritage Listing the City considers appropriate. Reserve 24308 is not on the City's Heritage Listing nor is it on the State Heritage Register.

### Bush Forever status

Reserve 24308 and 24309 are both identified as Bush Forever sites (Site No. 346), falling within the greater Lake Mt Brown, Brownman swamp and Henderson Regional Open Space areas. It is recommended that the care, control and management of this site, for conservation purposes, occur as part of the Beeliar Regional Park.

It is noted however that the subject area has been cleared and essentially very little native vegetation currently exists.

### State Squatter Policy

In 2005 the Department of Regional Development and Lands developed a policy on the Illegal Occupation of Coastal Crown Land (Squatters). The objective of which was to control the establishment of any new unlawful dwellings (squatter shacks) on Coastal crown land and facilitate the removal of existing dwellings (shacks) over a six year period. The policy was developed on the basis of an earlier State

Government policy on squatters adopted by Cabinet in July 1989 and January 1999.

Although the policy relates to unallocated Crown land and unmanaged reserves, it does indicate that a management body (i.e. local government authority), holding a management order (vesting) may exercise delegated authority to remove squatters under the provisions of the Land Administration Act. The policy goes further to state that where a management body has indicated an unwillingness to evict squatters they may be required to follow along the lines of the policy. There is also a view that the naval base shacks are not unlawful dwellings (i.e. squatter's shacks) as they have been granted approval in the past to occupy various sites on Reserve 24308 and 24309.

It should also be recognised that the State Government is currently holding a Parliamentary Inquiry into Shack Sites in Western Australia. The inquiry is ongoing and as such there is no indication as to whether the policy or any prospective changes would impact on the Naval Base shacks.

#### Defining the Key Problem

As mentioned above, the City has not conducted any detailed audit type inspection of each (or any) shack. It is apparent even if there were regular inspections undertaken by the City, there is no comparable legislative context in which to be able to impose minimum standards. This is of major concern to the City, in that managing risks and public safety on a City managed reserve, which must be at the forefront of Council's mind.

This view is reinforced by recent examples such as the death at Rottnest Island in October 2009, where a child died when a verandah of one of the holiday units collapsed. The unit although inspected by the Rottnest Island Authority was not assessed against the provisions of the Building Code of Australia and was not subject to regular inspections.

The City is therefore now faced with the task of having to bring the use of the reserve under some aspect of legislation, to ensure the shacks and their use is appropriately regulated for the future. If this is not able to be done, then the use of the reserve for this form of accommodation should cease.

In the absence of such legislative context and associated regulation, the following are apparent concerns:

1. How health standards will be imposed and regulated.
2. How building standards will be imposed and regulated, especially considering the highly exposed coastal location of the reserve.
3. How governance of shack occupancy and length of stay will take place.

These concerns form the basis of the following analysis, and the recommended option for Council to endorse for public consultation in terms of the future management of the land.

### Do Nothing Approach

The City's is exposed to potentially liability for death, injury, damage or loss currently, as the shacks have not been subject to any robust building assessment regime, as discussed previously. The shacks also present a very real fire risk, as they are unable to be fitted with smoke detectors due to an absence of mains electricity. There is a high level of risk that death or injury could occur to a tenant, due to a shack being potentially unsafe. The shacks have not been assessed from a health and/or sanitation perspective, creating a significant liability for the non-performance of regulatory functions under the *Health Act 1911*. Further, the City could be held liable for the extent to which it could or should have prevented any death, injury, damage or loss as a result of its current management regime.

To date the City has not conducted any detailed audit type inspection of each (or any) shack. As a result, the City does not know the full extent to which each shack complies with all applicable health and building laws. This reiterates the three key concerns previously listed above, viz:

1. How minimum health standards will be imposed and regulated.
2. How building standards will be imposed and regulated, especially considering the highly exposed coastal location of the reserve.
3. How governance of shack occupancy and length of stay will take place.

A number of more detailed concerns are also listed following:

1. Inconsistent approach to enforcement partially due to inability of officers to determine an appropriate action as there are no identified statutory requirements.
2. Majority of shacks have been extended over time exceeding the maximum permitted size under the current lease (i.e. 5.2m x 5.2m) and are not built to any building standards, such as the Building Codes of Australia (BCA) and referenced Australian standards.
3. The plumbing that runs through the reserve requires upgrading, in one section the in-situ pipes are over forty years old, this coupled with the fact that lessees have added further cumulative pressure to the pipes could exacerbate existing deterioration.
4. The site is a Class 'A' Reserve, which is designated for public use and enjoyment but is currently being used exclusively by lessees.
6. The lack of control over use of the ablution blocks, noise and behaviour management, issues with enforcement of on-site speed limits, as there is no manager onsite.
7. Non-compliance with applicable health standards at the shop/kiosk (the shop requires a new septic disposal system and the current

- building (i.e. Kitchen and food storage/preparation are inadequate).
8. No definitive boundaries between shacks and therefore inability to ensure minimum fire separation or ability to ensure adequate fire walls exist.
  9. Wall and Roof framing needs to be suitable for the coastal locality (i.e. wind loading, corrosion resistance and structural durability).
  10. Control of anti-social behavior - especially during Christmas period when approximately 600 people are in attendance.
  11. Ability to ensure long term public health and safety due to proximity to existing and future heavy industries.
  12. Location of shacks and public access to a sensitive coastal environment which requires significant and consistent coastal management (i.e. ongoing cliff face instability).
  13. Threat to long term environmental quality of the area, through the impact of inadequate and unauthorised sewerage disposal.
  14. Illegal plumbing - creating health and erosion issues - lessee's unauthorised access to existing water supplies, using their own plumbing.
  15. Sub-soil subsidence created by unauthorised storm-water disposal.
  16. Stormwater drainage is unsuitable, recent storm caused flooding of shacks.

#### Defining the City's Regulatory Responsibilities

The City's responsibilities broadly fall into the following two categories:

1. Regulatory (i.e. planning, building and health); and
2. Property management (leasing).

In the regulatory context, planning controls are essentially non-existent and associated risks are minimal. That said, if this site was subject to the City's planning powers and available for development, the City would almost certainly take the view that, if for no other reason than the site's proximity to the Kwinana Industrial Area, the site would not be supported for anything other than a passive / natural vegetation type categorisation. Sensibly, that is in fact the use (Bush Forever) for which the site has been earmarked.

The shacks are not compliant with the BCA. The extent of the non compliance in each instance is not known and cannot easily be determined by an appropriate professional. The level of risk is therefore not known and cannot easily be determined due to any number of unknown variables including the sites exposed location.

In its public health regulatory role the City has largely taken a passive approach to identified issues and concerns to date. The City has taken a similar approach in its building regulatory role also. This approach

however, needs to be reviewed as the City is potentially exposed to considerable risk.

From a safety viewpoint, that fact that the shack structures are not constructed to any recognised building standard means that they have potential to cause injury to occupiers or members of the public visiting Reserve 24308. This is notwithstanding the potential dangers that could be associated with the use of the reserve in its current way. In considering a new regime for the reserve, ensuring the imposition of a legislative framework has been at the forefront of officers minds.

#### Why the Current Shacks Can't Be Upgraded

Determining what is required to be done to upgrade the shacks to Building Code of Australia ("BCA") compliance will generally be relatively costly compared to the current shack value. After a cursory external inspection of the shacks it is apparent that all shacks would not and could not meet minimum BCA requirements.

#### The Planning Perspective

From a proper and orderly planning viewpoint which considers the public interest as its primary objective, the use of Reserve 24308 in its current ad hoc manner cannot continue. These issues are discussed following:

1. From a safety viewpoint, it is only by sheer good fortune that the shack structures have not caused injury or worse to occupiers or members of the public visiting Reserve 24308. These safety issues are compounded by the following facts:
  - The highly exposed nature of Reserve 24308 to high wind (and storm) events.
  - The fact that the shacks have not been assessed against any recognised building standards nor issued with any equivalent building approvals which take proper account of structural suitability for these high wind loadings.
  - The fact that the shacks have not been assessed nor issued with recognised building and/or health approvals notwithstanding that the City is fully aware that the shacks are utilized throughout the year.
  - The fact that some lessees have plumbed reticulated water and bottled gas into the shacks, without any form of recognised building and/or health approval and specifically without any form of basic effluent disposal or fire safety.
  - The lack of effective fire and emergency management procedures both within the shacks themselves and for the wider Reserve 24308.



2. From a coastal development and natural hazards viewpoint, there is clear state planning policy requirements to limit how close development gets to the coast. The direct interface with the coast is a very vulnerable environment, and for this reason State planning policy requirements prescribe minimum setbacks for new development and various other controls (refer State Planning Policy No. 2.6 *State Coastal Planning Policy*). The current setbacks and nature of development across Reserve 24308 do not meet these State planning policy requirements.
3. Despite the best endeavours of the City in managing landform risks, the fact that Reserve 24308 sits on top of a limestone cave system with direct relationship to the ocean means the structural form and integrity of the land is always changing. This vulnerability coupled with no equivalent building licence procedures means the geotechnical integrity of the reserve and specific shack sites is unknown.
4. Whilst located close to one of the State's main industrial areas, Reserve 24308 is well protected from industrial societal risk issues by virtue of it being northwards of a relatively safe industrial operation (Alcoa Alumina Refinery) and otherwise surrounded by the Beeliar Regional Park and the ocean. This means that the existence of the shacks across Reserve 24308 do not limit the development or operation of the Kwinana Industrial Area.
5. Whilst it is likely that the continued development of the Kwinana Industrial Area and future outer harbour will expand risk contours towards Reserve 24308, its existence and that of the Alcoa Alumina Refinery effectively limits risk profiles extending northwards. This also recognises that Reserve 24308 will need to be planned around while it accommodates the shacks, and will not be forced out by industrial development under the current legislative framework which exists.

The Kwinana Cumulative Risk Study (2008) report however indicates that before 2030, once the Fremantle Outer Harbour, James Point Port and the intermodal facility have been constructed, the shacks are likely to fall within the EPA Risk contours where occupants may be exposed to an unacceptable level of risks and hazards from an industrial incident.

6. Reserve 24308 is located on the foreshore of Cockburn Sound, which is a recognised vulnerable marine environment and habitat. Significant pressure is placed upon Cockburn Sound in its support of major industrial development (Kwinana and the Australian Marine Complex) and accordingly opportunities need to be taken to manage risks on the Cockburn Sound environment. In this respect, it is noted that many lessees have plumbed reticulated water into shacks, without any provision for adequate effluent

disposal. This means nutrient enriched effluent is potential being disposed of through no means other than running a pipe into the ground or onto the surrounding lawn. This poses a significant risk on Cockburn Sound by virtue of nutrient export.

7. The State Government Department responsible for the management of Crown Land (Department of Regional Development and Lands) would not support an active program by the City to remove the shacks from Reserve 24308 and return the land to a rehabilitated coastal dune state. This seems to be a reflection on the fact that the Department of Regional Development and Lands together with the City have tolerated the use of Reserve 24308 for many years, and to suddenly depart from this acceptance without taking an alternative approach of upgrading structures seems unreasonable and not in the spirit of good governance.
8. The City does have the ability of effectively rectifying noncompliant aspects of each shack and the broader Reserve 24308, together with the ability to impose a far greater annual lease fee to reflect the true costs of managing the reserve effectively. This approach however poses a very significant resource burden on the City, in particular the Building and Health Departments who will have the responsibility of undertaking a sweeping reform to administer an upgrading program across the reserve. It is the nature of the reform which will be the decision of Council, and which statutorily will be applied through a modified lease agreement.

In consideration of the above, some simple conclusions can be drawn:

- The current ad hoc nature of both the use and development of Reserve 24308 cannot continue in its current form.
- Whilst things need to change, it is considered both politically and publically untenable to force such a drastic action of closing Reserve 24308, especially in light of the fact that the State Government agencies in charge of industrial risk and Crown land do not see this severe action as being warranted.
- There is the ability to undertake a sweeping regime of reform to make the shacks and wider infrastructure across Reserve 24308 acceptable - however this is dependent upon the resource of the Building and Health Departments to undertake this (as part of their legislative duties). This will be the key matters for Council to understand and consider in making a decision.

The aim of the options explored further in this report is to encourage the creation of a structured plan for the management of the site that proactively tackles (or manages) the whole site including the City's regulatory and 'management' roles together with associated risks identified to date and which may occur in the future.

### Potential Options to Consider

Following the comprehensive research and investigations undertaken for more than 12 months, there are two recommended options for the Council to consider. These are described following:

*OPTION 1 - UNDERTAKE A COMPREHENSIVE REFORM BY BRINGING THE RESERVE UNDER THE CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 (REQUIRING SIGNIFICANT INVESTMENT ON BOTH COUNCIL AND LEASE HOLDERS' BEHALF)*

1. Option 1 involves removal of current shacks by lessees and lessees replacing them with a caravan and annexe.
2. Costs to bring site to a satisfactory standard to enable implementation of *Caravan Parks and Camping Grounds Act 1995* are considerable.
3. Estimated income and expenditure however makes this a feasible option.
4. Defined lease term of five years and land to be cleared at end of term or prior if shack no longer required. Shack can be replaced with a caravan and annexe - *Caravan and Camping Grounds Act 1995* to apply.
5. The City offers each leaseholder (shack owner) a shorter term 'lease', at an increased lease fee, for a defined period, in exchange for the acknowledgement and acceptance by each shack owner of the following:
  - They have no claims to ownership of the land or compensation arising out of past or future management of the Site.
  - The lease fee for the five years is to be in accordance with the current market valuation, and then increased by CPI each year and possibly back to market after second option period.
  - The shacks can only be used for a total of four months of each year due to the proximity of the Kwinana heavy industrial area.
  - The shacks themselves are to be regarded as being the property of each leaseholder - until and unless they demolish / remove those shacks at the appropriate time;
  - That all structural and other concerns (if any) associated with each shack are the full responsibility of that leaseholder - including obligations that may be owed to visitors to those shacks.
  - That any health / building safety concerns that may be raised by the City (arising from quarterly inspections of the Site) will be actioned within an agreed time frame, failing which the lease will be terminated and the shack removed.
  - That this 'package' is essentially 'not negotiable'.

6. It is suggested that the initial term for the 'lease' be for five years, with three options to extend each of five years.
7. The six month State Government break clause to still be detailed in any new lease agreement.
8. The leases for this first five year period will have basic maintenance clauses in them that ensure public safety is addressed rather than focusing on individual shack owner safety - as that issue/risk will be retained by each leaseholder by appropriate provisions within each lease.
9. The lessees will not be able to assign their lease, a public register will be created and any lease surrendered can be assigned to the next person on the register.
10. At the end of the initial five year lease period, or sooner if agreed to by the City, the structure is removed, the site cleared and replaced with a registered and roadworthy caravan in accordance with the *Caravan Park and Camping Grounds Act 1995*.

Estimated costs have been compiled in respect of this option, and are provided in the Agenda attachments.

*OPTION 2: CLOSE THE RESERVE DOWN WITHIN A SHORT TERM TIMEFRAME (5 YEARS), WITH ALL STRUCTURES REMOVED, THE RESERVE REVEGETATED AND RETURNED TO BUSH FOREVER*

Defined lease term of five years with no further extensions.

Land to be cleared at the end of term or prior if shack is no longer required.

The Reserves to be rehabilitated back to Bush Forever state.

1. The current lessees have no legal claims to ownership of the land or compensation arising out of past management of the site.
2. The lease fee for the five years is to be in accordance current method of calculation.
3. The shacks can only be used for a total of four months of each year due to the proximity of the Kwinana heavy industrial area.
4. The six month State Government break clause to still be detailed in any new lease agreement.
5. That at the end of the 'lease' the shacks are to be demolished, removed and the site cleared, by the lessee, and the land returned to Bush Forever state.
6. The shacks themselves are to be regarded as being the property of each leaseholder - until and unless they demolish / remove those shacks at the appropriate time.

7. That all structural and other concerns (if any) associated with each shack are the full responsibility of that leaseholder - including obligations that may be owed to visitors to those shacks.
8. That any health / building safety concerns that may be raised by the City (arising from annual inspections of the site) will be actioned within an agreed time frame, failing which the lease will be terminated and the shack removed.
9. That this 'package' is essentially 'not negotiable'.
10. It is suggested that the minimum 'lease' be for five years, by way of a one year lease with a further four options to renew for one year each.
11. The leases will have basic maintenance clauses in them that ensure public safety is addressed rather than focusing on individual shack owner safety - as that issue/risk will be retained by each leaseholder by appropriate provisions within each lease.
12. The lessees will be able to assign their lease as per the current process however any proposed purchaser will be advised that they have a defined term for the shack and it is to be then demolished and removed at the end of the term.
13. That the City does not intend to take 'ownership' of any shack. If any leaseholder wishes to relinquish 'their' shack, the City will immediately demolish and remove it.
14. The costs to demolish and remove the shacks in 2015 are estimated at \$1,362,000.00 and the City would need to decide if they were going to demolish the toilets etc.
15. It would take approximately five years to restore the site to bushland costs are detailed below. Whether the City should bear these costs or not is something to be decided.

Estimated costs have been compiled in respect of this option, and are provided in the Agenda attachments.

#### *KIOSK PROPOSAL (AS PART OF BOTH OPTIONS)*

The City's Health Officers have concerns that the Kiosk is currently too small to satisfactorily comply with the provisions of the Health Act and associated legislation. The City has the opportunity to replace the Kiosk with a more substantial building that is built to standards and offer the lease to the current occupier. Or the City could consider replacing the building with a more substantial kiosk something along the lines of the Coogee Beach Kiosk. The initial cost of this building was in the vicinity of \$600,000.00 in 2003 with estimated CPI increases of 3% per annum it could cost approximately \$760,000.00.

The fee that is currently being paid by the lessee of the Kiosk is not considered to be suitable for the commercial operation. It is recommended that the lease fee be increased gradually to eventually reflect the fee that is recommended in the valuation.

### Officer Recommendation

To date the City has been overseeing the site as effectively as possible without a formal legislative framework in place - this is a situation which needs to be rectified. While no serious incidents have occurred to date, recent experiences such as the recent Rottnest Island death, highlight the need to ensure the site is managed according to a clear framework underpinned by legislation. Either Option 1 or 2 will provide the City and Council with the ability to manage the site more effectively and safely into the future.

As concluded in the advice provided by the City's solicitors (McLeods Barristers and Solicitors):

*“As considered previously, the City may feel that, given that these improvements are located on Crown land and, in some cases, probably not subject by the relevant approvals, the City may be able to ignore these problems. This would, of course, be a grave mistake.*

*The reality is that the City is vested with the care, control and management of this land and is, and has been for a long period of time, aware of the potential dangers associated with the present state of affairs.*

*Given the value of these leasehold interests and the current instability of these agreements, the City should have sufficient leverage to be able to enforce a higher standard of building and health safety in the area in the event that it can make progress with the other steps outlined above.”*

Reflecting this, officers recommend that Council proceed with the implementation of Option 1. This will see the site brought into compliance with the *Caravan Parks and Camping Grounds Act 1995*, with a systematic process in place to comprehensively change the current nature of the site.

It needs to be stressed that the aim of either of the two options is to encourage the creation of a structured plan for the management of the site that proactively tackles (or manages) the whole site including the City's regulatory and 'management' roles together with associated risks identified to date and which may occur in the future. In noting this, there is a legitimate public attachment to the site, which would be lost if Council chose to effectively close the reserve within a short term period.

The City's officers believe that provided a clear and structured approach is applied through a plan which brings the site into conformity with the *Caravan Parks and Camping Grounds Act 1995*, then there is no foreseeable reason why the reserve can't function in a proper manner in perpetuity.

## **Strategic Plan/Policy Implications**

### **Demographic Planning**

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

### **Infrastructure Development**

- 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**

As mentioned above, estimated costs have been compiled in respect of both options, with these provided in the Agenda attachments. If Council supports Option 1, undertakes public consultation then formally endorses this option, there will be financial implications associated.

As can be seen in the attachments, Option 1 will involve the City having to prefund capital works to the site over the initial five year period in order to implement the required infrastructure for a caravan park. This results in a total cost of \$2.82M in today's money. Importantly though, with a gradual increase in lease fees which reflect the market value of the leases, by Year 5 it is forecast that \$2.72M in income would have been received. This essentially recovers the costs associated with the capital improvements over the initial five year period.

In terms of Option 2 (the closure of the reserve after five years), the costs associated with revegetation and rehabilitation are such that the City will face the prospect of having to fund works without the clear possibility of recouping these costs. It is forecast that costs to remove shacks would be in the vicinity of \$1.3M, and rehabilitation costs of \$0.57M.

## **Legal Implications**

*Land Administration Act 1997*

*Caravan Park and Camping Grounds Act 1995*

## **Public Consultation**

This report is for Council to consider a long term strategy for dealing with the reserve, focussed on bringing the use of the reserve under some aspect of legislative control. It is recommended that Council endorse the draft option recommended by officers, for the purpose of public consultation.

This consultation will involve a formal letter being written to all shack lessees, together with a full copy of this report being sent including attachments. In addition, a public forum briefing is proposed to be hosted at the City. A specific page on the City's website will also be created for the purposes of public consultation.

**Attachment(s)**

1. Site Plan
2. Aerial Photograph
3. Pictorial Examples of Current Shacks
4. Costs associated with Option 1
5. Costs associated with Option 2

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

NA

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

Nil

**15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

**15.1 (OCM 12/08/2010) - LIST OF CREDITORS PAID - JUNE 2010 (N MAURICIO) (5605) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for June 2010, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

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



**Submission**

N/A

**Report**

The list of accounts for June 2010 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**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 – June 2010.

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

N/A

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

Nil.

**15.2 (OCM 12/08/2010) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - JUNE 2010 (5505) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the Statement of Financial Activity and associated

reports for June 2010 (interim and unaudited), as attached to the Agenda; and

- (2) continue applying a materiality threshold of \$100,000 variance from the appropriate base amount for the 2010/11 financial year in accordance with Financial Management Regulation 34(5).

## COUNCIL DECISION

### Background

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 be presented to Council within 2 months after the end of the month to which the statement relates.

The regulations require the information reported in the statement to be shown either by nature and type, statutory program or business unit. The City has chosen to report the information according to its organisational business structure, as well as by nature and type.

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2009/10 financial year.

### Submission

N/A

## Report

Due to continuing end of financial year (EOFY) processing and the unaudited nature of the accounts, the June Statement is an interim one. The final accounts will be reported to Council in due course with the audited annual financial statements.

The interim statement is currently showing a budget surplus position of \$5.7M. However, in setting the 2010/11 budget, a surplus carry over of \$4.2M was factored in. This was required to cover both the estimated carried forward projects and to deliver a balanced budget.

Whilst our position currently shows an uncommitted amount of \$1.5M within the surplus, the final position cannot be ratified until all EOFY processing is complete and the carried forwards reviewed and reconciled. The declared surplus position for 2009/10 will be reported to Council along with the review of carried forwards at the September meeting.

### Closing Funds

Council's closing funds (adjusted net current assets position representing liquidity) of \$5.2M reflects a healthy financial at year end. The major contributors to this result are additional operating revenues (\$2.1M) and underspending in cash operating expenditure of \$3.8M.

Council's cash and investment holdings (including restricted items) total \$59.4M at year end. This amount has unusually increased from the one reported in May due to the City receiving some large one-off grant amounts (e.g. Super Clinic grant and advance payment of 2010/11 FAGS). Cash reserves and other restricted cash comprise \$50.78M of this total.

### Operating Revenue

Operating revenues exceed the full year budget by \$2.1M as a result of better than expected performance in several key areas.

Investment earnings on both municipal and reserve funds outperformed the revised budget by \$0.6M. This reflects the impact of rising interest rates in general and abnormally favourable term deposit rates. \$0.3M of this additional revenue was earned on Reserve funds and is transferred in full to the Reserves.

Revenue from rates came in \$0.6M ahead of the full year budget, largely due to higher than expected interim rating.

Operating grants and subsidies income was also over budget by \$0.6M. The major reason for this is the advance disbursement of the FAGS 2010/11 first quarterly payment at \$0.7M. The Federal

Government has decided to continue this strategy from last year as a means of providing stimulus to the economy. Council will need to adjust the budget it has adopted for the 2010/11 FAGS in due course. This will be dealt with when the final carried forwards and budget surplus position is presented to Council in September.

Rubbish removal charges levied were \$226K more than full year budget. However, these funds are applied to waste collection service costs and a year end surplus of \$552k in service delivery costs has been quarantined to subsidise future costs in the delivery of the service.

Likewise, income from operations at the Henderson Waste Recovery Park was \$376k more than budget. However, the net operating result for the facility came in at a profit of \$1.4M. This has also been quarantined via transfer to the Waste and Recycling Reserve.

#### Operating Expenditure

Operating expenditure of a cash nature came in below budget by \$3.8M. The major contributing items at a nature and type summary level is materials and contracts at \$2.5M and other expenses at \$0.7M (comprising mainly landfill levy). Utility costs are also \$0.5M below budget due to a lag in billing.

Council's biggest expense line item - employee costs is currently \$0.7M below budget, but is subject to EOFY accruals. This saving is expected to reduce as a consequence.

All of the City's Business Units (except Infrastructure Services) came in below budget. Infrastructure Services are showing a small deficit of \$72k over a total operating expenditure budget of \$5.5M.

Details of material variances within each Business Unit are shown in the Variance Analysis section of the report.

#### Capital Expenditure & Funding

Council's overall capital spend was \$17.2M below the budget and the aggregate variance in the funding sources was \$9.8M below budget.

The major cause of this result is attributed to various projects that have been delayed for a variety of reasons and are currently in progress and carried forward into the 2010/11 year. These total approximately \$13M and are detailed in the Capital Expenditure Variance section of the report.

Some of the major variance items include construction of Spearwood Avenue (Sudlow/Barrington) at \$1.6M, subdivision of lot 18 Grandpre Crescent at \$1.4M, Coogee Beach SLSC at \$2.6M, Coolbellup

Community Centre at \$1.0M and Hammond Road Regional Recreation Facilities at \$1.0M.

It is worth noting that the delay in out flowing cash results in additional investment earnings accruing towards either Council's general purpose income or the cash backed Reserves.

#### Description of Graphs and Charts included within Statements

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a very quick view of how the different units are tracking and the comparative size of their budgets.

The Capital Expenditure graph tracks the ytd capital spend against the budget. It also includes an additional trend line for the total of ytd actual expenditure and committed orders. This gives a better indication of how the capital budget is being exhausted, rather than just purely actual cost alone.

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year. The liquidity shown at the end of June is as expected and comparable with that of the same time last year.

Council's overall cash and investments position is provided in a line graph with a comparison against the ytd budget and the previous year's position at the same time. This is currently showing a much stronger position than budgeted due to the good performance in our operating result and the large amount of unspent capital funds to be carried forward. In contrast to previous years and the budget forecast, the graph is showing our cash position has actually increased in June. This is due to some large capital grants having been received in June for future spending.

Pie charts included show the break up of actual operating income and expenditure by nature and type and the make-up of Council's current assets and liabilities (comprising the net current position).

#### Material Variance Threshold for 2010/11

For the purpose of identifying material variances in the Statement of Financial Activity, Financial Management Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian accounting standards.

AASB1031 - Materiality provides the following definition for materiality in the context of financial reporting: -

*Omissions or misstatements of items are material if they could, individually or collectively; influence the economic decisions of users taken on the basis of the financial statements. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.*

Quantitative thresholds to be used for determining the materiality of an item (or an aggregate of items) are always going to be of an arbitrary nature. Materiality is a matter for professional judgement and in the City's case will need to consider the characteristics of the City and the intended audience of its monthly financial statements.

It is proposed that Council maintains the materiality threshold for the 2010/11 financial year at a variance amount of \$100,000 (from the appropriate base amount). The use of this threshold for the first time in the 2009/10 year has appeared to work well, focusing attention and financial management endeavours to those more significant matters.

### **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**

Material variances identified of a permanent nature (i.e. not due to timing issues) may impact on Council's final budget position (depending upon the nature of the item).

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A

#### **Attachment(s)**

Statements of Financial Activity and associated Reports - June 2010.

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

N/A

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

Nil.

**15.3 (OCM 12/08/2010) - TENDER NO. RFT38/2009 & RFT04/2010 - ADVERTISING SERVICES - LOCAL NEWSPAPER (RFT04/2010) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report; and
- (2) advise Herald Publishing Company P/L that there is no capacity for Council to undertake a formal independent inquiry into the awarding of the Advertising Tender (RFT04/2010) for reasons outlined in the report.

**COUNCIL DECISION**

**Background**

At the July 2010 Ordinary Council Meeting Cllr O'Brien requested the following:

*"A report be presented to the August 2010 Council Meeting on Mr Smith, publisher of the Herald's request to Council dated 2 July 2010 for a formal, independent inquiry into the awarding of the advertising tender RFT04/2010 to the Community News/Cockburn Gazette".*

**Submission**

N/A

**Report**

Tender No. RFT38/2009 for Advertising Services (Local Community Newspaper) had been called as a three(3) year contract with options to extend by one year and then up to another 12 months. The City received two responses; they were from Herald Publishing Company

(HPPL) publisher of the Cockburn City Herald and Community Newspaper Group (CNG) publisher of the Cockburn Gazette.

In assessing Tender No. RFT38/2009, the evaluation panel was concerned that the readership data submitted by HPPL was out of date, being from 2006. The City had grown by 30% in the period 2006 to 2010 and as such sought up to date readership data reflecting the significant change of the City. HPPL indicated in their tender response that the City undertake the research as HPPL believed that research commissioned by media proprietors could be biased. The City was prepared to undertake such research but sought a variation of the conditions of tender for Tender No. RFT38/2009 by amending the term of the contract from three years to two years with a review after twelve months in order for the City to conduct such research.

City staff sought to clarify aspects of the HPPL submission specifically with regards to readership. Whilst the City understands and acknowledges that HPPL's submission provided detailed audited distributed information, the City was seeking to better quantify the penetration of editorial and advertising information to its residents, to quantify actual readership of the newspaper and to better understand the interaction between the reader and the editorial and advertising content. Simply focusing on distribution does not necessarily equate to value for the advertising spend and officers are able to clarify any aspect of the tender submission to ensure that they are able to make an informed recommendation.

Both Tenderers were requested to agree to the amendment in the term of the contract that is from three years to two years with a review at the end of the first twelve months. If both Tenderers had agreed to change the term of the contract and that their tendered prices were applicable to the shorter initial contract period of two years then tenders would not have been required to be recalled. HPPL indicated that they supported the amendment to the term of the contract as contained in Tender No. RFT38/2009 but CNG did not agree to the variation. Given the City could not obtain the unanimous consent of both tenderers to the amendment of conditions of Tender No. RFT38/2009, the tender was formally recalled.

A change to the term of the contract is viewed as a significant change to the contract. It was believed that the consent of both tenderers would not require the City to recall the tender and subject the tenderers to further costs in submitting new tenders.

A second Tender No. RFT04/2010 was called with both HPPL and CNG submitting tenders. The only change was the term of the contract, that is, the term was changed from three years to two years. HPPL submitted an unchanged response, whilst CNG submitted a response with lower pricing.



The effectiveness of the City's advertising expenditure is considered a high priority as is demonstrated by the weighting allocated to this criteria. During the evaluation of Tender No. RFT38/2009, the Evaluation Panel could not adequately quantify readership data for the Cockburn City Herald. The Community News Group had provided the City with independently verified readership data effective 2009 whilst the Herald provided readership data from 2006. In its letter, dated 2 February, the City advised all tenderers of its desire to undertake an 'independent survey/research of the effectiveness of advertising in local newspapers as a medium in which the community sees as being the most suitable instrument to communicate the City's information' at the end of the first twelve months of the contract term. Dependant on the outcomes of that research, the City wished to be able to reconsider its ongoing relationship with its contractor. Tender No. RFT38/2009 did not enable the City to introduce those additional terms or reduce the term of the contract without first seeking the concurrence of each tenderer. The City's letter of 2 February sent to both HPPL and CNG sought to vary the terms of the tender and as agreement was not forthcoming, the tender was subsequently rejected (refer letter 17 February).

In response to Tender No. RFT04/2010, the Cockburn Gazette did reduce its price in their subsequent submission for Tender No. RFT04/2010. The HPPL did not amend its pricing for Tender No. RFT04/2010. There is nothing prohibiting a tenderer from amending its bid as a result of recalling tenders. Tender submissions and pricing for Tender No. RFT38/2009 remained confidential to ensure the probity of the process and to ensure that it did not impact on the advertising and award of Tender No. RFT04/2010. Any allegation of impropriety is challenged and unless information is provided to the contrary, any formal allegation will be defended. No communication between the City and the tenderers occurred other than to seek their consent to vary Tender No. RFT38/2009 and to clarify readership data provided by HPPL.

Whilst it is not appropriate to comment on specific information provided by the Cockburn Gazette to support their submission, the City can advise that no new information was provided for consideration of Tender No. RFT04/2010.

The evaluation for Tender No. RFT38/2009 was undertaken by three officers comprising the Director, Finance and Corporate Services, the Manager, Marketing and Communications and Manager, Finance. The evaluation of Tender No. RFT04/2010 was made by a three member panel comprising two officers, the Director, Finance and Corporate Services, the Manager, Marketing and Communications and an experienced advertising agency Director, Mr Ron Sherwood. All panel members assessed the tender submissions independently and objectively and only on the information submitted in the tender documents. Any material submitted that was not relevant to the tender

documents was not evaluated. The covering letter from HPPL to Tender No. RFT04/2010 was submitted as part of the tender documentation and was distributed and considered by the evaluation panel only. It was not considered appropriate for this information to be forwarded to Elected Members or other staff members whilst the tender was being evaluated and considered by the panel.

The determination of Tender No. RFT04/2010 was made after an evaluation of each submission against the evaluation criteria included in the tender documents and will be managed in accordance with the specification and scope outlined in the document.

The panel assessed each submission against the criteria advertised with the outcome of the evaluation being collated in the table below.

Tenderer's Name	Percentage Scores		
	Non-Cost Evaluation	Cost Evaluation	Total
	70%	30%	100%
Community Newspaper Group <sup>***</sup>	64.9%	18.1%	83.0%
Herald Publishing Company Pty Ltd	43.6%	30.0%	73.6%

<sup>\*\*\*</sup>*Recommended Submission*

Pricing of each tender is confidential and has been circulated previously under confidential cover.

The decision to award Tender No. RFT04/2010 was made under delegated authority by the Director, Finance and Corporate Services and the Director, Administrative and Community Services as per Council Policy SES3 'Evaluation of Tenders'. In accordance with the conditions of delegation any Elected Member may request a tender be presented to Council for consideration. No such request was made relevant to this tender.

### Conclusion

The City's Tendering Procedures have been established and are governed by the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996 – Part 4: Tenders for Providing Goods or Services.

The City believes the calling and rejection of submissions for Tender No. RFT38/2009 and the calling and awarding of Tender No. RFT04/2010 was conducted correctly and in accordance with the Local Government Act, Tender Regulations and Council Policies.

As mentioned in the Acting CEO's response to Mr Smith on 15 July, 2010, it is open for him to refer the matter to the Department of Local

Government to deal with any claims of impropriety. Given the continued claims by Mr Smith in his correspondence of 26th July, such an action was contemplated by the administration as a means of seeking a third party review of the process. Officers did not consider it necessary as they believe that the process followed was sound and that Council's relevant Policy and associated Delegated Authority were adhered to as the means by which the decision was reached to award the Tender. Whilst we would support any review, we believe that any dispute on the probity of the process is best left for others to initiate investigative action, if thought necessary or appropriate.

Accordingly, it is not considered that Council is able to effect any other outcome in respect to the awarding of the Tender and Herald Publishing should be advised of this opinion.

A Chronology for Tender No. RFT38/2009 and Tender No. RFT04/2010 is noted in detail in attachment 3.

### **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**

Local Government Act 1995; and  
Local Government (Functions and General) Regulations 1996 – Part 4:  
Tenders for Providing Goods or Services.

#### **Community Consultation**

N/A

#### **Attachment(s)**

1. Correspondence received from Mr Andrew Smith, Herald Publishing Company Pty Ltd, dated 2 July 2010.
2. City's response to Mr Andrew Smith's letter of 2 July 2010.
3. Chronology of Tender No. RFT38/2009 and Tender No. 04/2010 - Advertising Services Local Community Newspaper.

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

Herald Publishing has been advised that the matter is to be considered by Council at 12 August 2010 Council Meeting.

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (OCM 12/08/2010) - TENDER NO. RFT 11/2010 - CONSULTANCY SERVICES - ENGINEERING DESIGN (RFT11/2010) (J RADAICH) (ATTACH)**

**RECOMMENDATION**

That Council accept the tenders submitted for Tender No. RFT11/2010 – Consultancy Services – Engineering Design from:

- Shawmac Pty Ltd (roads and drainage)
- SJR Civil Consulting Pty Ltd (roads and drainage)
- AECOM Australia Pty Ltd (roads & drainage)
- GHD Pty Ltd (road & drainage and traffic engineering)
- Opus International Consultants (roads & drainage and traffic engineering)
- BG&E Pty Ltd (traffic engineering and structural)
- Worley Parsons (structural)
- JDSI Consulting Engineers (structural and lighting & electrical)
- Sage Consulting Engineers (lighting & electrical)
- Underground Power Development (lighting & electrical)

for a two (2) year period from award, and extendable for up to a further three (3) year period for a total estimated Contract value of \$522,000 GST exclusive. The award being subject to outstanding compliances with insurance, anti-competitive conduct and OSH declaration being resolved and in accordance with their submitted tenders and Council's contract documentation.

**COUNCIL DECISION**

## Background

To supplement the City's own in house design capability there is a need to periodically engage suitably qualified and experienced Engineering Design Consultants to provide engineering design and related services. These include, but are not limited to, the design of urban roads, road intersections, traffic management facilities, traffic control and pedestrian signals, line marking and signage, stormwater drainage, footpaths and cycleways, road pavements, street lighting, minor structures and landscapes (open space areas and roadways); as well as road safety audits, traffic impact assessments and traffic management studies.

These consultancy services would also include liaison and consultation with the public, public utilities negotiations, project cost estimating, draft tender document preparation, tender specification enquiries, tender and quotation submissions assessment assistance, contract and project supervisions, engineering design plan checking, liaison and negotiation with private developers etc.

As the scope of services comprises a broad range of design requirements and projects which vary in scope, complexity and sizes, it is recognised that not all consultants have the necessary resources and skill sets to meet every engineering design requirement. Therefore, it is opportune to invite consultants to tender their services for either all of the City's engineering design requirements, or only for those requirements for which they have the resources and skill sets that will enable them to provide those particular services.

Consequently, a broad specification and associated tender documentation was prepared and subsequently called for the provision of various engineering design services for a period of two years, with extension options for up to an extra three years.

Tender No. RFT11/2010 – Consultancy Services – Engineering Design was advertised on Wednesday 10 March 2010 in the Local Government Tenders section of "The West Australian" newspaper. It was also displayed on the City's website between 10 March and 1 April 2010 inclusive.

No Elected Member has requested that this tender be submitted to Council for acceptance.

## Submission

Tenders closed at 3:00 p.m. (AWST) on Thursday 1 April 2010 and twenty one (21) tender submissions were received:

1	Zacor Design Pty Ltd
2	Lowes Churchill & Associates Pty Ltd

3	Shane McMaster Surveys
4	WorleyParsons
5	Shawmac Pty Ltd
6	Transcore Pty Ltd
7	CPG Pty Ltd
8	JDSI Consulting Engineers
9	Sage Consulting Engineers
10	SJR Civil Consulting Pty Ltd
11	Porter Consulting Engineers
12	Cardno (WA) Pty Ltd
13	Opus International Consultants
14	GHD Pty Ltd
15	Underground Power Development
16	BG & E Pty Limited
17	Pritchard Francis Pty Ltd
18	ARRB Group Ltd
19	CNF & Associates Pty Ltd
20	VDM Consulting (WA) Pty Ltd
21	AECOM Australia Pty Ltd

## Report

### Compliant Tenderers

<b>Compliance Criteria</b>	
A	Compliance with the Specification contained in the Request.
B	Compliance with the Conditions of Tendering this Request.
C	Compliance with Fixed Price (Clauses 1.8 and 6.3) and completion of Clause 3.4.2
E	Compliance with Insurance Requirements and completion of Clause 3.2.6
E1	Public Liability Insurance \$10,000,000.00 Australian
E2	Professional Indemnity \$1,000,000.00 Australian
E3	Workers Compensation
E3	<b>Or</b> Personal Accident Insurance
F	Compliance with and completion of the Price Schedules 3.4.4 & 3.4.5
1.10.2	Number of Copies of Tender Submission Required
1.10.21	ACCC Certificate of Warranty Submitted
Part 4	OSH Declaration
Addendum	Acknowledgement of Addendum

<b>Tenderer's Name</b>		<b>Compliance Assessment</b>
1	Zacor Design Pty Ltd	Non-Compliant
2	Lowes Churchill & Associates Pty Ltd	Compliant
3	Shane McMaster Surveys	Compliant
4	Worley Parsons	Compliant
5	Shawmac Pty Ltd	Compliant
6	Transcore Pty Ltd	Compliant
7	CPG Pty Ltd	Compliant
8	JDSI Consulting Engineers	Compliant
9	Sage Consulting Engineers	Compliant
10	SJR Civil Consulting Pty Ltd	Compliant
11	Porter Consulting Engineers	Compliant
12	Cardno (WA) Pty Ltd	Compliant
13	Opus International Consultants	Compliant
14	GHD Pty Ltd	Compliant
15	Underground Power Development	Compliant
16	BG & E Pty Limited	Compliant
17	Pritchard Francis Pty Ltd	Compliant
18	ARRB Group Ltd	Compliant
19	CNF & Associates Pty Ltd	Compliant
20	VDM Consulting (WA) Pty Ltd	Compliant
21	AECOM Australia Pty Ltd	Compliant

Zacor Design did not offer or demonstrate any particular expertise in the engineering design consultancy services as required by the Specification, other than general project and specialised management expertise and services, and were therefore deemed non-compliant and not included further in the evaluation process.

All other Tenderers were deemed acceptable in regard to compliance as the non-compliances related to non-critical areas of insurance, anti-competitive conduct, OSH declaration and addendum acknowledgement, which can be confirmed or addressed prior to award of contract if necessary.

#### Evaluation Criteria

<b>Evaluation Criteria</b>	<b>Weighting Percentage</b>
Demonstrated Experience and Key Personnel	30%
Demonstrated Understanding	30%
Tendered Price – Unit Rate Assessment	40%
<b>TOTAL</b>	<b>100%</b>

### Tender Intent/ Requirements

The purpose of the tender is to:

- Assist the in-house design team to achieve the goal of completing designs well ahead of the planned construction date.
- Provide an ability to respond quickly to short term peak demands.
- Provide expertise where the in-house team may have a shortfall.

The services to be provided may include, but are not limited to:

(a) Design of:

- Urban roads
- Road intersections
- Traffic management facilities
- Traffic Control and Pedestrian Signals to Main Roads WA Standards
- Linemarking and signing plans to Main Roads WA requirements
- Stormwater drainage
- Footpaths and cycleways
- Road pavement
- Street lighting
- Minor structural
- Landscape for open space areas and roadways

(b) Traffic Consultancy Services:

- Road Safety Audits
- Traffic Impact Assessments
- Traffic Management Studies

(c) Other Consultancy Services:

- Public liaison and consultation.
- Negotiations with public utility authorities for the alteration and relocation of services.
- Project cost estimating.
- Preparation of draft tender specifications and contract documentation.
- Answering tender specification enquiries.
- Assist in the assessment of tenders and drafting of contract award recommendations.
- Supervision of contracts carried out by private companies.
- Checking of engineering design plans for subdivisions and developments undertaken by third parties.
- Liaison and negotiations with private developers on engineering design issues.
- Supervision of projects carried out by the day labour workforce.



### Evaluation Panel

The tender submissions were evaluated by:

1. John Radaich – Manager Engineering; and
2. Victor Iwuoha – Construction Engineer, Engineering Services

### Scoring Tables - Combined Totals

Due to the wide scope of requirements of engineering disciplines, the assessment of the tender submissions were divided into four (4) main broad discipline groups, which represent the bulk of the City's engineering design requirements. Tenderers with particular expertise in each of these groups were only included in the assessment of that group. The four broad design groups are:

- Roads and drainage
- Traffic engineering
- Structural
- Lighting and electrical

The resultant scoring tables of the four groups are detailed below. The five highest assessment scores in the 'Roads and Drainage' grouping and the three highest assessment scores in each of the other groupings have been highlighted in each table.

In consideration of the breadth of expertise sought in the Road and Drainage area, the Evaluation Panel considered that the five (5) highest scoring Tenderers in this group, and the three (3) highest scoring Tenderers in each of the other discipline groups, would best serve to form the Panel of Consultants. This would allow up to three (3) quotes to be obtained if necessary from the selected providers for any particular design project.

<b>ROADS AND DRAINAGE</b>			
<b>Tenderer's Name</b>	<b>Percentage Score</b>		
	<b>Non-Cost Evaluation</b>	<b>Cost Evaluation</b>	<b>Total</b>
	<b>60%</b>	<b>40%</b>	<b>100%</b>
<b>SJR Civil Consulting Pty Ltd **</b>	45.00%	40.00%	<b>85.00%</b>
<b>GHD Pty Ltd **</b>	60.00%	24.81%	<b>84.81%</b>
<b>AECOM Australia Pty Ltd **</b>	56.67%	26.58%	<b>83.25%</b>
<b>Shawmac Pty Ltd **</b>	55.00%	28.10%	<b>83.10%</b>
<b>Opus International Consultants **</b>	55.00%	28.10%	<b>83.10%</b>
BG & E Pty Ltd	56.67%	24.05%	80.72%
Porter Consulting Engineers	55.00%	25.32%	80.32%
Worley Parsons	53.33%	24.81%	78.14%

CPG Pty Ltd	48.33%	28.61%	76.94%
JDSI Consulting Engineers	53.33%	22.28%	75.61%
VDM Consulting (WA) Pty Ltd	55.00%	20.25%	75.25%
ARRB Group Ltd	48.33%	26.58%	74.91%
Cardno (WA) Pty Ltd	48.33%	25.32%	73.65%
Pritchard Francis Pty Ltd	51.67%	21.52%	73.19%
Lowes Churchill & Associates Pty Ltd	51.67%	21.01%	72.68%
Shane McMaster Surveys	30.00%	34.94%	64.94%

\*\* Recommended Submission

<b>TRAFFIC ENGINEERING</b>			
<b>Tenderer's Name</b>	<b>Percentage Score</b>		
	<b>Non-Cost Evaluation</b>	<b>Cost Evaluation</b>	<b>Total</b>
	<b>60%</b>	<b>40%</b>	<b>100%</b>
<b>Opus International Consultants **</b>	58.33%	40.00%	<b>98.33%</b>
<b>BG &amp; E Pty Ltd **</b>	55.83%	39.33%	<b>95.16%</b>
<b>GHD Pty Ltd **</b>	60.00%	32.58%	<b>92.58%</b>
Shawmac Pty Ltd	53.33%	37.08%	90.41%
WorleyParsons	55.00%	34.38%	89.38%
CPG Pty Ltd	50.00%	39.10%	89.10%
Cardno (WA) Pty Ltd	50.00%	39.10%	89.10%
JDSI Consulting Engineers	56.67%	32.36%	89.03%
AECOM Australia Pty Ltd	50.00%	37.53%	87.53%
Porter Consulting Engineers	53.33%	34.16%	87.49%
VDM Consulting (WA) Pty Ltd	51.67%	34.16%	85.83%
Transcore Pty Ltd	53.33%	30.34%	83.67%
ARRB Group Ltd	48.33%	35.28%	83.61%
Lowes Churchill & Associates Pty Ltd	45.00%	34.83%	79.83%

\*\* Recommended Submission

<b>STRUCTURAL</b>			
<b>Tenderer's Name</b>	<b>Percentage Score</b>		
	<b>Non-Cost Evaluation</b>	<b>Cost Evaluation</b>	<b>Total</b>
	<b>60%</b>	<b>40%</b>	<b>100%</b>
<b>BG &amp; E Pty Ltd **</b>	60.00%	39.58%	<b>99.58%</b>
<b>JDSI Consulting Engineers **</b>	56.47%	40.00%	<b>96.47%</b>
<b>WorleyParsons **</b>	56.47%	38.54%	<b>95.01%</b>

GHD Pty Ltd	60.00%	34.38%	94.38%
Opus International Consultants	52.94%	39.58%	92.52%
AECOM Australia Pty Ltd	56.47%	34.79%	91.26%
Cardno (WA) Pty Ltd	52.94%	37.50%	90.44%
VDM Consulting (WA) Pty Ltd	56.47%	27.71%	84.18%
Pritchard Francis Pty Ltd	51.18%	32.71%	83.89%

\*\* Recommended Submission

<b>LIGHTING AND ELECTRICAL</b>			
<b>Tenderer's Name</b>	<b>Percentage Score</b>		
	<b>Non-Cost Evaluation</b>	<b>Cost Evaluation</b>	<b>Total</b>
	<b>60%</b>	<b>40%</b>	<b>100%</b>
<b>Underground Power Development **</b>	60.00%	33.94%	<b>93.94%</b>
<b>JDSI Consulting Engineers **</b>	53.37%	40.00%	<b>93.37%</b>
<b>Sage Consulting Engineers **</b>	60.00%	32.97%	<b>92.97%</b>
AECOM Australia Pty Ltd	53.37%	35.64%	89.01%
BG & E Pty Ltd	57.52%	30.79%	88.31%
GHD Pty Ltd	58.38%	29.58%	87.96%
CNF & Associates Pty Ltd	50.04%	36.36%	86.40%
ARRB Group Ltd	48.42%	27.88%	76.30%

\*\* Recommended Submission

### Evaluation Criteria Assessment

#### (a) Demonstrated Experience & Key Personnel

All the Tenderers demonstrated varying levels of experience and experienced personnel in their particular discipline/s of expertise. Some also demonstrated access to suitably experience specialist sub-consultants.

#### (b) Demonstrated Understanding

All the Tenderers are well established engineering consultancies and have an understanding to various extents of the requirements for the various facets of municipal engineering in their particular discipline/s of expertise.

(c) Tendered Price

An indicative hourly rate was determined for each tenderer based on their hourly rates for their staff and sub-consultants with particular training and expertise in each discipline group. This indicative rate was utilised in determining their Cost scores in each broad discipline group.

(d) Summation

The Evaluation Panel considered that the five (5) highest scoring Tenderers in the Roads and Drainage group and the three (3) highest scoring Tenderers in each of the other discipline groups would best serve to form the Panel of Consultants. This would allow up to three (3) quotes to be obtained if necessary from the selected providers for any particular design project. The tenderers achieving the highest scores are as highlighted in the Scoring Tables and listed in the recommendation.

**Strategic Plan/Policy Implications**

**Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.
- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.
- To achieve provision of an effective public transport system that provides maximum amenity, connectivity and integration for the community.

**Budget/Financial Implications**

The design costs of projects is budgeted in the normal capital works, operational and general ledger budgets every year.

This is the first panel contract for design services entered into by the City. The total estimated Contract value of \$522,000 is based on expenditure for various stand alone design contracts over the previous two financial years for these type of design and associated works.

**Legal Implications**

Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 refers.

**Community Consultation**

No Community Consultation Required

**Attachment(s)**

The following Confidential Attachments are provided under a separate cover:

1. Compliance Criteria Checklist
2. Tender Evaluation Sheet (s)
3. Tendered Prices

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

Those who lodged a tender submission have been advised that this matter is to be considered at the 12 August 2010 Council Meeting.

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

Nil.

**16.2 (OCM 12/08/2010) - PERMANENT CLOSURE OF MIGUEL ROAD BIBRA LAKE TO THE PASSAGE OF VEHICLES - APPLICANT: CITY OF COCKBURN (ES/R/002) (V IWUOHA) (ATTACH)**

**RECOMMENDATION**

That Council in accordance with section 3.50 of the Local Government Act 1995:

- (1) institutes a permanent closure of a section of Miguel Road between Cocos Drive and Discovery Drive estimated from December 2010 subject to:-
  - 1 There being no substantial objection received as a result of advertising in a local newspaper.
  - 2 There being no substantial objection from service authorities, emergency services or adjoining owners.
  - 3 An approved traffic management plan to monitor and control traffic movements due to the closure.
  - 4 The proponent being fully responsible for public liability and damages arising from works.
  - 5 Spearwood Avenue opens to vehicular traffic between Barrington Street and Sudlow Road.

**COUNCIL DECISION**

## **Background**

The City has commenced construction of Spearwood Avenue between Barrington Street and Sudlow Road. The development of this segment of Spearwood Ave will remove industrial traffic from Miguel Road and urban areas of Bibra Lake and Yangebup. Spearwood Ave will become the major link between Stock Road and Beeliar Drive for movement to and from the Bibra Lake industrial area including Cockburn Commercial Park.

## **Submission**

To consider the closure of Miguel Road Bibra Lake.

## **Report**

An outcome of the construction of Spearwood Avenue between Barrington and Sudlow is the termination of Miguel Road. In its current form it is therefore necessary for Council approval for the permanent road closure of Miguel Road between Cocos Drive and Discovery Drive from December 2010 or when Spearwood Avenue project is completed.

The closure is necessary for the following reasons:

1. North and South bound traffic will not be able to turn into Spearwood Avenue safely.
2. Northern and southern traffic flows will utilise newly constructed Spearwood Avenue.

## **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 to the closure will be covered by Spearwood Avenue Capital Works Project.

### **Legal Implications**

Section 3.50 of the Local Government Act.

**Community Consultation**

To be advertised in a local newspaper and service authorities, emergency services and adjoining owners advised.

**Attachment(s)**

Plan of the closure.

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

N/A

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

Nil.

**16.3 (OCM 12/08/2010) - PERMANENT CLOSURE OF HOWSON WAY BIBRA LAKE TO THE PASSAGE OF VEHICLES - APPLICANT: CITY OF COCKBURN (ES/R/002) (V IWUOHA) (ATTACH)**

<p><b>RECOMMENDATION</b></p> <p>That Council in accordance with section 3.50 of the Local Government Act 1995:</p> <p>(1) institutes a permanent closure of a section of Howson Way between Barrington Street. and Cocos Drive estimated closure from December 2010 subject to:-</p> <ol style="list-style-type: none"><li>1 There being no substantial objection received as a result of advertising in a local newspaper.</li><li>2 There being no substantial objection from service authorities, emergency services or adjoining owners.</li><li>3 An approved traffic management plan to monitor and control traffic movements due to the closure.</li><li>4 The proponent being fully responsible for public liability and damages arising from works.</li><li>5 Spearwood Avenue opens to vehicular traffic between Spearwood Avenue and Sudlow Road.</li></ol>
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<p><b>COUNCIL DECISION</b></p>
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## Background

The City has commenced the construction of Spearwood Avenue between Barrington Street and Cocos Drive. The development of this segment of Spearwood Ave will remove industrial traffic from Howson Way and urban areas of Bibra Lake and Yangebup. Spearwood Ave will become the major link between Stock Road and Beeliar Drive for movement to and from the Bibra Lake industrial area and Cockburn Commercial Park.

## Submission

To consider the closure of Howson Way Bibra Lake.

## Report

An outcome of the construction of Spearwood Avenue between Barrington and Sudlow is the termination of Miguel Road. In its current form it is therefore necessary for Council approval for the permanent road closure of Howson Way between Barrington Street and Cocos Drive from December 2010 or when Spearwood Avenue project is completed.

The closure is necessary for the following reasons

- Four way intersections induce danger and increase the likelihood of right angle crashes. By introducing T junctions where we can replace four way intersections, we can eliminate the potential hazard poised by four way intersections. In this case the design has provided T junctions at Howson Way and also at Cocos Drive and Cocos Drive connection will be performing the same but safer function than the disconnected Howson Way.
- Howson Way is at a steep gradient to Spearwood Avenue and Miguel Road; this makes truck *manoeuvrings* difficult and constitute a potential hazard to the motorists in the area and as such it makes absolute sense to close Howson Way and turn it into a *cul-de-sac*.

## 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 to the closure will be covered by the Developer

**Legal Implications**

Section 3.50 of the Local Government Act.

**Community Consultation**

To be advertised in a local newspaper and service authorities, emergency services and adjoining owners advised.

**Attachment(s)**

Plan of the closure

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

N/A

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

NIL

**16.4 (OCM 12/08/2010) - TEMPORARY CLOSURE OF A SECTION OF LINKAGE AVE IN COCKBURN CENTRAL TO THE PASSAGE OF VEHICLES (4200A) (S HUSSAIN) (ATTACH)**

**RECOMMENDATION**

That Council in accordance with Section 3.50 of the Local Government Act 1995:

- (1) institutes a closure of a section of Linkage Ave (eastern carriageway), Cockburn Central between Stockton Bend and Beeliar Drive, for a period of 6 months initially commencing 23 August 2010 to 23 February 2011 subject to:
  1. There being no substantial objection received as a result of advertising in a local newspaper.
  2. There being no substantial objection from service authorities, emergency services or adjoining owners.
  3. The developer engaging a traffic management contractor to submit a certified traffic management plan to monitor and control traffic movements due to the closure.

4. All works on existing City infrastructure (roads, footpaths, drainage, parks or verges) completed and reinstated in accordance with the "Public Utilities Code of Practice 2000", "Restoration and Reinstatement Specification for Local Government 2002" and the City of Cockburn "Excavation Reinstatement Standards 2002" as a minimum.
  5. The proponent being fully responsible for public liability and damages arising from.
- (2) subject to a satisfactory outcome of the closure, extend the closure for a further 6 months until 23 August 2011.

**COUNCIL DECISION**

**Background**

Cockburn Central Town Square area is now completed and the other infrastructures like roads, car parking and street lightings are also fully operational. Building activities on the vacant lots can commence any time. Lots 14 & 15 Linkage Ave will be used for the proposed FESA Headquarter and construction works are about to commence on those lots.

**Submission**

Advance Traffic Management Pty Ltd, the developer's appointed traffic management contractor has requested Council to implements procedures to close a section of Linkage Ave (eastern carriageway only) between Stockton Bend and Beelias Drive, Cockburn Central for a period of up to 52 weeks during the construction of the FESA Headquarter on Lots 14 & 15 Linkage Ave.

**Report**

During the construction activities of FESA Headquarter in Cockburn Central the road closure will be required for the below reasons:

1. Numerous plant and workers will be used during the construction of the new fire station. Workers, plant and equipment will be required to operate from within the traffic lane to carry out the works. Closure of east lane of Linkage Ave

along the boundary of the fire station is therefore required to enable workers, plant and equipment to operate safely on the roadway without conflicting with traffic.

2. The main users of that section of carriageway of Linkage Ave is PTA buses and public using the train station either as a park & ride user or dropping off and picking up passengers to & from the train station. PTA has confirmed that they have no objection to the proposal and they are happy with the bus diversions as proposed in the traffic management plan. City has asked the contractor to conduct a traffic impact study and the outcome is that a maximum 2 cars every minute in the morning and afternoon peak hours are using the eastern carriageway of Linkage Ave. Considering these cars can only take Beeliar Drive east (no right turn is allowed onto Beeliar Drive), using the short detour route via Midgegoroo Ave will not have a major impact as Midgegoroo Ave has an existing left turn pocket lane to allow vehicles head towards Beeliar Drive east. The impact on the pedestrians due to closure would be minimal as Linkage Ave west side carriageway also has a footpath running along the carriageway. Although the closure is requested for 52 weeks it would be prudent to approve closure initially for 24 weeks and then extend the approval subject to a satisfactory review of the impact of closure by a City officer.
3. Access for local traffic will not be affected by this closure; access to the existing houses within the development will always be maintained.
4. The contractor PS Structures has appointed a certified traffic management contractor (ATM) to monitor the impact of the road closure on the area. ATM has already submitted a traffic management plan, which is in line with Australian Standards and Main Roads field guidelines. There is no foreseen issue with the traffic management plan and the closure will not create any undue congestion. Advance warning signs will be installed and an advice of the proposed closure will be placed in both the local newspaper and West Australian newspaper.

### **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 to the closure will be covered by the Developer.

**Legal Implications**

Section 3.50 of the Local Government Act.

**Community Consultation**

To be advertised in a local newspaper and service authorities, emergency services and adjoining owners advised.

**Attachment(s)**

Plan of the closure

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

Advance Traffic Management Pty Ltd has been advised that the matter will be considered by Council at the 12 August 2010 Council Meeting.

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

NIL

**16.5 (OCM 12/08/2010) - TEMPORARY CLOSURE OF LYON ROAD IN HARVEST LAKES SUBDIVISION IN ATWELL TO THE PASSAGE OF VEHICLES (4292) (S HUSSAIN) (ATTACH)**

**RECOMMENDATION**

That Council in accordance with Section 3.50 of the Local Government Act 1995:

- (1) institutes a temporary closure of a section of Lyon Road, Atwell between Gibbs Road and Euphoney Way, Atwell for a period of up to 12 weeks commencing 23 August 2010 to 23 November 2011 subject to:-
  1. There being no substantial objection received as a result of advertising in a local newspaper.
  2. There being no substantial objection from service authorities, emergency services or adjoining owners.
  3. The developer engaging a traffic management contractor to submit a certified traffic management plan to monitor and control traffic movements due to the closure.

4. All works on existing City infrastructure (roads, footpaths, drainage, parks or verges) completed and reinstated in accordance with the "Public Utilities Code of Practice 2000", "Restoration and Reinstatement Specification for Local Government 2002" and the City of Cockburn "Excavation Reinstatement Standards 2002" as a minimum.
5. The proponent being fully responsible for public liability and damages arising from the works.

## COUNCIL DECISION

### Background

Harvest Lakes Stage 10A subdivision has been approved by Western Australian Planning Commission and as part of the approval the developer has to reconstruct a section of Lyon Road between Gibbs Road and Euphoney Way, Atwell.

### Submission

Altus Traffic Pty Ltd, the developer's appointed Traffic Management contractor to carry out the traffic management works for the reconstruction works of Lyon Road, has requested Council to implement procedures to close a section of Lyon Road between Gibbs Road and Euphoney Way, Atwell for a period of up to 12 weeks during the construction of the development on the subdivision. This will facilitate the subdivision works and the required reconstruction of the section of Lyon Road.

### Report

During the construction activities of Harvest Lakes Stage 10A subdivision the road closures will be required for the below reasons:

1. As per the planning approval of the subdivision, the developer is required to upgrade a section of Lyon Road. The upgrading works involve total reconstruction and realignment of this section of the road and also drainage and sewer works. Lyon Road will be lifted up to 1m from its existing level. Road closure is therefore required to carry out the works in a safe manner.

2. This section of Lyon Road carry very low volume of traffic and the closure will not have any impact on the traffic flow surrounding the area. Detour signs are to be in place prior to the closure. All detour pavements are in good condition and also the short detour lengths will not cause any lengthy delay.
3. Access for local traffic will not be affected by this closure; access to the existing houses within the development will always be maintained.
4. The developer, Landcorp has appointed a certified traffic management contractor (Altus) to monitor the impact of the road closure on the area. Altus has already submitted a traffic management plan, which is in line with Australian Standards and Main Roads field guidelines. There is no foreseen issue with the traffic management plan and the closure will not create any undue congestion. Advance warning signs will be installed and an advice of the proposed closure will be placed in both the local newspaper and West Australian newspaper.

### **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 to the closure will be covered by the Developer

### **Legal Implications**

Section 3.50 of the Local Government Act.

### **Community Consultation**

To be advertised in a local newspaper and service authorities, emergency services and adjoining owners advised.

### **Attachment(s)**

Plan of the closure

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

Altus Traffic Pty Ltd has been advised that the matter will be considered by Council at the 12 August 2010 Council Meeting.

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

NIL

**17. COMMUNITY SERVICES DIVISION ISSUES****17.1 (OCM 12/08/2010) - ADOPTION OF CHILDREN'S SERVICES STRATEGIC PLAN (CR/M/004) (G BOWMAN) (ATTACH)****RECOMMENDATION**

That Council adopt the City of Cockburn Children's Services Strategic Plan', as attached to the Agenda.

**COUNCIL DECISION****Background**

In May 2001, Helen Grzyb and Associates was contracted by the City of Cockburn to undertake a ten year Strategic Plan for Children. The Strategic Plan outlined children's services, and identified current and future needs for children aged up to 12 years living within the Cockburn District.

In November 2009 Helen Grzyb and Associates was contracted to undertake a broad community consultation and review the Children's Services Plan.

**Submission**

To adopt a Strategic Plan for the provision of 'Child Friendly' services and facilities to the Cockburn community in the future.

**Report**

The Review of the Children's Services Plan required the following tasks to be undertaken:

1. Update and review information on currently available community services for children aged 0–12 years and their parents / caregivers in the Cockburn District.
2. Conduct consultation/s with both the broader community and service providers, and provide demographic analysis, to identify current and future needs for children and parents/caregivers in the Cockburn District.
3. Develop recommendations and a Forward Plan outlining the required type and location of future services for children and parents / caregivers over the next 5 year period.

The review of the Children's Services Plan 2001 indicated that the City's achievements had been impressive over the past 10 years, and that all 41 recommendations were noted as either being actioned or not viable due to lack of available grant funding resources. The implementation of the recommendations has seen an increase in the diversity and range of options available to families and children in Cockburn. During the consultation undertaken in reviewing the Children's Services Plan, State Government officers and service providers saw the City as an innovator and ready to develop new programs to meet emerging needs. Families noted that the current services are highly regarded but that the increased demand on services due to demographic changes has led to reduced services for individual children.

The following issues were consistently highlighted as being key issues to be addressed in the development of any future strategy:

- insufficient affordable, culturally appropriate and inclusive parenting, childcare, and other early childhood services;
- insufficient affordable, culturally appropriate, and inclusive social and recreational services;
- need to improve co-ordination of information;
- Insufficient early intervention and health services;
- lack of community support services and recreation services for children aged 7 to 9 years; and
- impact of changing demographics, funding and policy trends on provision of current Children's Services.

These needs have been developed into a comprehensive strategic plan for the City of Cockburn that reflects the principles and best practice of current Children's Services trends. To ensure a child and family friendly City, the following six outcomes should be achieved:

1. *Child-Friendly Outdoor Spaces and Buildings*

Outcome: That the children in the City of Cockburn have access to best practice child and family-friendly planned environments



that support healthy child development, quality of life and inclusion for all.

2. *Social Participation*

Outcome: That children aged 0-12 years in the City of Cockburn have affordable and equitable access to activities and events that support social participation and foster well-being and social integration.

3. *Respect and Inclusion*

Outcome: That the children in the City of Cockburn are recognised, included and encouraged to participate as valuable members in the social, civic and economic life of the City.

4. *Communication and Information*

Outcome: That relevant information is readily accessible to children and families regarding current services, activities, and events. City of Cockburn staff and Children's Service Providers are kept informed of changing policies and trends regarding children and families, both nationally and locally.

5. *Community and Health Services*

Outcome: That the children and their parents / caregivers in the City of Cockburn are able to access affordable, inclusive, and quality community support and health services. Access includes cost, transport, availability of services, and physical / social access issues.

6. *Responding to the needs of Children and Families*

Outcome: The City facilitates and/or develops programs and services in response to the identified needs of children and parents / caregivers, with due consideration for the changing demographics and population growth across the City.

Full details of the 41 strategies are contained in Part 7 of the Plan.

While the City successfully partners with the Federal and State Governments to provide services and programmes aimed at supporting children, there is a demonstrated shortfall in services available to children and their families.

In acknowledging that this is essentially a State and Federal Government responsibility, the reality is that the City has a role to play at a local level. Local government is rarely involved as a funding

provider of these services but can assist by identifying and facilitating the provision of services once grant funding is available.

If adopted, each strategy will be implemented according to timeframes as detailed.

Additionally, the City will continue to seek opportunities for the increased provision of its current services and programs to the Cockburn community into the future.

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

#### **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**

The plan identifies budget estimates, timeframes and sources for each strategy. Any new or additional resource requirements will need to be sought through grant funding or through standard Municipal Budget processes and timeframes.

#### **Legal Implications**

N/A

#### **Community Consultation**

Extensive community consultation was undertaken with children and parents. The consultation process also encompassed meeting with the City's Children's Groups, Local and Regional Children's Services Groups and organisations and Commonwealth and State Government agencies which assist in the provision of Children's Services and facilities.

#### **Attachment(s)**

Children's Services Strategic Plan.

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

Stakeholders consulted in the preparation of the Plan have been advised that this matter is to be considered at the 12 August 2010 Council Meeting.

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

The Commonwealth and State Governments are primarily responsible for Children's Services within the community. Significant funds are available for the provision of Children's Services and facilities and are available to both local government and private organisations to facilitate the localised provision under contract between the Federal / State Government and the Agency deemed by the funding body to be best placed to deliver the Government's preferred outcomes.

Additional services are made available through Council's Municipal Budget, where identified.

#### **18. EXECUTIVE DIVISION ISSUES**

Nil

#### **19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

#### **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**

Nil

#### **24 (OCM 12/08/2010) - 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. (OCM 12/08/2010) CLOSURE OF MEETING**